

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

POMONA UNIFIED SCHOOL DISTRICT .

OAH CASE NUMBER 2021100878

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING CONFERENCE, AND
HEARING VIA VIDEOCONFERENCE

DECEMBER 10, 2021

On October 27, 2021, Student filed a due process request, called the complaint, with the Office of Administrative Hearings, referred to as OAH. On December 3, 2021, the parties filed with OAH a joint request for a mediation and continuance of hearing, which was denied without prejudice on December 6, 2021. On December 9, 2021, the parties filed a second joint request with OAH seeking a mediation and continuance of the hearing. That request stated a mediation on March 22, 2022, and a continuance of the hearing to April 12, 2022, is necessary to allow sufficient time to complete

assessments of Student and hold an individualized education program, called an IEP, team meeting.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. The continuance request is granted because allowance of time to complete assessments in this case, given the issues in the matter, constitutes good cause for the requested mediation date, and continuance of the

hearing. However, because the complaint in this matter has been pending since October 27, 2021, a further continuance of the hearing will not be granted, absent a showing of extraordinary circumstances requiring another continuance of the hearing. This matter will be set as follows:

Mediation will be held on March 22, 2022, at 9:00 AM to 4:30 PM. The mediation will be held via videoconference using the Microsoft Teams application. The parties must file participant information forms with OAH at least two business days before the mediation.

Prehearing Conference will be held on April 4, 2022, at 1:00 PM.

Due Process Hearing will be held on April 12, 2022, through April 14, 2022. The hearing shall begin at 9:30 AM, and end about 3:30 PM on all days unless otherwise ordered. The hearing shall be conducted via videoconference using the Microsoft Teams application. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or

subpoena a witness. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with evidence of good cause why it was not possible to file the motion by that date.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings