

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GLENDORA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080725

ORDER FOLLOWING PREHEARING CONFERENCE
GRANTING REQUEST FOR SECOND MEDIATION AND

CONTINUANCE

FEBRUARY 1, 2022

On January 31, 2022, Administrative Law Judge Claire Yazigi, Office of Administrative Hearings held a prehearing conference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Surisa Rivers, Attorney at Law, appeared on behalf of Student. Whitney Antrim, Attorney at Law, appeared on behalf of Glendora Unified School District. Aundrea Cardoza, Attorney at Law, also attended the PHC on behalf of Glendora. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

Student moved to continue the prehearing conference and due process hearing based on a desire to participate in a second mediation, because Student had not been in communication with Student's attorney for two months prior to January 24, 2022 due to COVID-related illness in Student's family, and because Student was not prepared to proceed to hearing.

Student's motion was not filed three days prior to the prehearing conference. The parties did file a timely joint request for second mediation and continuance on January 26, 2022, which was three days before PHC. This request was denied by the undersigned for a lack of any facts establishing good cause as to why a second mediation was warranted. Nothing in the denial order, dated January 27, 2022, precluded the parties from resubmitting their request with facts a showing of good cause. Student resubmitted a request for second mediation and continuance on January 28, 2022. As such, good cause existed to consider Student's motion. At PHC, Glendora agreed to participate in a second mediation.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Student did not establish good cause for continuance based on lack of communication between Student and Student's counsel, or a resulting lack of preparation for hearing, especially given that Student filed the initial complaint in August 2021. Student did establish good cause to continue the matter for a second mediation. In this case, Student's motion to amend the complaint was granted, accordingly new issues have been raised following the initial mediation. The request for a second mediation is granted for good cause.

Student did not establish good cause as to the length of continuance requested, especially given the age of this case and the number of continuances already granted. The parties are advised that any further continuances will be strongly disfavored by OAH, absent extreme circumstance. All previously scheduled dates are vacated. The case shall proceed as follows:

Mediation will be held via videoconference on February 11, 2022, from 9:00 am to 4:30 pm.

Prehearing Conference will be held via videoconference on February 25, 2022 at 10:00 am.

All other prehearing matters shall be addressed at the February 25, 2022 prehearing conference. All prehearing motions must be filed three business days before the PHC.

Due Process Hearing will be held via videoconference on March 8, 9, and 10, 2022.

The hearing shall begin at 9:30 AM on the first day of the hearing and at 9:00 AM on all other days, unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Claire Yazigi".

Claire Yazigi

Administrative Law Judge

Office of Administrative Hearings