

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100602

ORDER GRANTING REQUEST TO RESCHEDULE
VIDEOCONFERENCE MEDIATION AND ORDER GRANTING
SECOND CONTINUANCE OF DUE PROCESS HEARING

JANUARY 11, 2022

On October 21, 2021, Parent on behalf of Student filed a due process hearing request with the Office of Administrative Hearings naming San Diego Unified School District. The Office of Administrative Hearings is referred to as OAH.

On November 15, 2021, the parties filed a Joint Request to Schedule Mediation and Continue Hearing Dates. OAH issued an Order Granting Request for Videoconference Mediation and Continuance of Due Process Hearing on November 15, 2021. OAH continued the due process hearing to February 8 through 10, 2022.

On December 9, 2021, the parties filed a Joint Request to Reschedule Mediation. OAH issued an Order Granting Request to Reschedule Videoconference Mediation on December 9, 2021, and continued the mediation date to January 13, 2022.

The parties filed a Joint Request for a Second Continuance and to Reschedule Mediation on January 10, 2022. The parties seek to reschedule the mediation for February 23, 2022, and continue the prehearing videoconference to March 4, 2022 and due process hearing until March 15, 16 and 17, 2022.

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).)

The parties contend they have reached an agreement in principal to settle the dispute, but they require additional time to explore and agree upon a non-public school placement for Student. The parties assert they have had difficulty arranging tours of non-public schools due to the COVID-19 pandemic. The parties request a continuance of the mediation and due process hearing dates for the purpose of attempting to settle this dispute without the necessity of a due process hearing.

The parties established good cause for a second continuance of the due process hearing. Accordingly, the parties' joint request to continue the due process hearing and continue the mediation is granted. This matter shall proceed as follows:

MEDIATION DATE is February 23, 2022, 9:00 am to 4:30 pm.

MEDIATION will occur via telephone or video.

PREHEARING VIDEOCONFERENCE will be held on March 7, 2022, at 3:00 pm. The parties' requested date of March 4, 2022 is unavailable due to a statewide conference.

DUE PROCESS HEARING BY VIDEOCONFERENCE will be held on March 15, 16, and 17, 2022.

PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

The hearing shall begin at 9:30 am on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge. Prehearing videoconference statements and motions are due to OAH no later

than three business days before the prehearing conference or with a showing of good cause why it was not timely filed.

No further continuances of this matter shall be granted absent a showing of good cause supported by sworn declaration.

IT IS SO ORDERED

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings