

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

V.

COACHELLA VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100612

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING SECOND MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS HEARING

JANUARY 26, 2022

On October 21, 2021, Student filed with the Office of Administrative Hearings, referred to as OAH, a request for due process hearing. On November 29, 2021, OAH granted the parties' joint request to continue the hearing, based on the parties' request to mediate the case on January 21, 2022. OAH set the prehearing conference on February 14, 2022 and the hearing on February 23 and 24, 2022.

On January 21, 2022, the parties participated in a mediation.

On January 26, 2022, the parties filed a joint request for a second mediation to be held on February 23, 2022 and a continuance of the hearing to March 29, 2022 on the grounds that the pending independent educational evaluation had not been completed by the date of the first mediation, expect it to be completed within the next two weeks and anticipate that a second mediation will help them resolve the remaining issues.

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. The parties have justified their request for a second mediation and a short continuance of the hearing in this case. The parties participated in mediation on January 21, 2022, but the pending independent education evaluation had not yet been completed. The parties believe it will be completed within the next two weeks, anticipate resolving all remaining issues at a second mediation, and the requested continuance is relatively short. Because this case has been pending since October 21, 2021, and this is the second continuance, OAH does not contemplate any further continuance of this matter. This matter will be set as follows:

MEDIATION DATE is February 23, 2022, 9:00 AM to 12:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on March 18, 2022, at 1:00 PM.

DUE PROCESS HEARING will be held on March 29 through 30, 2022. March 31, 2022 is a holiday.

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

ANY CHANGES TO THE PARTICIPANTS' EMAIL ADDRESSES PROVIDED BY THE PARTIES IN THEIR REQUEST MUST BE FILED TWO BUSINESS DAYS BEFORE 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 conference statements and motions are due to the OAH no later

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

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings