

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

NORWALK-LA MIRADA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021110004

ORDER GRANTING REQUEST FOR VIDEOCONFERENCE
MEDIATION AND REQUEST FOR CONTINUANCE

JANUARY 18, 2022

On October 29, 2021, Student filed a request for due process, called a complaint, with the Office of Administrative Hearings, called OAH, naming Norwalk-La Mirada Unified School District. This matter was originally scheduled for hearing beginning December 21, 2021. On December 6, 2021, OAH granted Student's unopposed motion to amend. OAH issued a new Scheduling Order which set this matter for hearing beginning February 1, 2022.

On January 18, 2022, the parties filed a joint request for mediation and "an initial continuance." The parties request a mediation date of February 23, 2022, and that

hearing be continued until May 10, 2022. The parties provide no reason for requesting such a lengthy delay in the hearing.

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. OAH supports efforts to resolve this matter through mediation. The parties' request to schedule a mediation constitutes good

cause for a continuance of the hearing schedule. However, the hearing in this matter has already been continued once as a result of Student's motion to amend. The parties have not established good cause for the length of the requested continuance. Further, their request to calendar a hearing date in excess of 60 days from the requested mediation date violates OAH scheduling procedures. This matter will be set as follows:

Mediation will be held on February 23, 2022, 9:00 a.m. to 4:30 p.m. The mediation will be held using videoconferencing.

Prehearing Conference will be held on March 14, 2022, at 10:00 a.m.

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

Due Process Hearing will be held on March 22, 23, and 24, 2022. The hearing shall begin at 9:30 a.m. on all days unless otherwise ordered. 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.

Theresa Ravandi

Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings