

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

GARVEY SCHOOL DISTRICT.
OAH CASE NUMBER 2021090761

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SECOND MEDIATION

FEBRUARY 1, 2022

This matter was filed on September 22, 2021. On January 31, 2022, the parties jointly filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter to accommodate 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).)

The IDEA and OAH encourage prehearing mediation and resolution. The request to continue a matter to accommodate an initial mediation constitutes good cause. That mediation is provided at public expense. Good cause must be established, however, for a second mediation and additional continuances.

The parties participated in mediation in this case on January 7, 2022. The parties represented that they executed an interim settlement agreement authorizing assessments that will be completed no later than March 24, 2022. The parties seek a second mediation on March 28, 2022 to resolve the issues in this case with the benefit of having the assessment reports. Good cause exists to grant a second mediation in this matter.

The parties request that due process hearing, currently scheduled for February 23 and 24, 2022, be continued until April 12, 13, and 14, 2022. Based on the anticipated date of the assessment reports, as well as the date of second mediation, good cause exists to continue due process hearing to April 12, 13, and 14, 2022.

The parties' joint request for second mediation and continuance is granted. All dates are vacated, and the matter will be set as follows:

Mediation will be held virtually on March 28, 2022, from 9:00 am to 4:30 pm.

Prehearing Conference will be held virtually on April 4, 2022, at 1:00 p.m.

Due Process Hearing will be held on April 12, 13, and 14, 2022. 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. The parties are on notice that no further continuance will be granted absent extraordinary good cause.

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.

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

Claire Yazigi

Administrative Law Judge

Office of Administrative Hearings