

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100192

ORDER GRANTING REQUEST FOR MEDIATION AND

CONTINUANCE OF HEARING

MARCH 4, 2022

On October 7, 2021, Student filed a due process complaint with the Office of Administrative Hearings, referred to as OAH, naming Las Angeles Unified School District, as respondent. On January 4, 2022, the parties participated in a mediation. On January 28, 2022, Student filed a notice of withdrawal of counsel. On January 31, 2022, OAH granted Student's motion to amend the due process complaint. The matter was scheduled for a prehearing conference on March 14, 2022, at 3:00 PM, and hearing on March 22, 23, and 24, 2022. On March 3, 2022, the parties filed a joint request to schedule a mediation and continue the due process hearing. The parties seek a second mediation as the complaint has been amended.

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 parties established good cause for a second mediation. Additionally, they established good cause for a continuance to conduct the requested mediation. However, this matter has been pending since October and the parties did not establish good cause for the length of continuance requested. The request for a continuance is granted. All dates are vacated. This matter shall be set as follows:

MEDIATION DATE is March 24, 2022, 9:00 AM to 12:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on April 4, 2022, at 1:00 PM.

DUE PROCESS HEARING will be held on April 12, 13, and 14, 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 conference 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.

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.

Rita Defilippis

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings