

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

V.

LINCOLN UNIFIED SCHOOL DISTRICT AND SAN JOAQUIN
COUNTY OFFICE OF EDUCATION.
OAH CASE NUMBER 2021110335

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

MARCH 15, 2022

On November 10, 2021, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Lincoln Unified School District and San Joaquin County Office of Education. The Office of Administrative Hearings is referred to as OAH.

On December 27, 2021, OAH granted the parties' request for a January 18, 2022 mediation and continued the hearing to March 15 through 17, 2022. The parties participated in mediation on January 18, 2022.

On February 16, 2022, OAH granted Student's request to amend the complaint, rescheduling the hearing to April 5 through 7, 2022.

On March 15, 2022, the parties filed a joint request to continue the hearing to May 10 through 12, 2022 and requested a mediation to take place on April 4, 2022. The request is made on the grounds that Student amended the complaint after the mediation, Lincoln Unified did not have an attorney representing it in this matter until February 23, 2022, and it did not have counsel at the January 18, 2022 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 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 stated grounds justify the request for a second mediation and establish good cause for the requested continuance. All dates are vacated. This matter will be set as follows:

MEDIATION DATE is April 4, 2022, 9:00 AM to 4:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on April 29, 2022, at 10:00 AM.

DUE PROCESS HEARING will be held on May 10 through 12, 2022.

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 OAH no later than

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

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings