

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:
PARENT ON BEHALF OF STUDENT,

and

WILLIAM S. HART UNION HIGH SCHOOL DISTRICT,
OAH CASE NUMBER 2021110381
OAH CASE NUMBER 2022030476

ORDER GRANTING REQUEST FOR THIRD
VIDEOCONFERENCE MEDIATION AND FOR
CONTINUANCE OF PREHEARING CONFERENCE AND DUE
PROCESS HEARING

MARCH 21, 2022

On November 12, 2021, Student filed with the Office of Administrative Hearings, referred to as OAH, a due process request naming William S. Hart Union High School District. On December 16, 2021, OAH granted the parties joint request to continue the due process hearing and set a mediation date. On March 15, 2022, William S. Hart Union School District filed a due process request naming Student, and also filed a

motion to consolidate the two matters. On March 17, 2022, OAH granted the unopposed motion to consolidate the cases, naming Student's case the primary case. On March 18, 2022, the parties filed a joint request to continue this matter, based upon the new allegations brought by William S. Hart Union School District in its March 15, 2022 complaint, which arose on when Student disagreed with the offer made during the February 17, 2022 Individualized Education Program, IEP, team meeting. Student needs additional time to review and prepare for these new allegations. The parties also request an additional mediation to help resolve the new, additional issues alleged involving the recent IEP and Student's request for an Independent Educational Evaluation.

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 as there are the consolidated matter alleges new issues, and dispute resolution is strongly favored. The parties' represented the continuance of the hearing and their participation in a second mediation will help resolve significant issues without a due process hearing, will serve judicial economy, and the interests of justice. Therefore, a continuance of the hearing is warranted. All previously scheduled dates are vacated. This matter will be set as follows:

MEDIATION will be held on March 30, 2022, at 9:00 AM to 4:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on April 18, 2022, at 3:00 PM.

DUE PROCESS HEARING will be held on May 3 through 5, 2022.

ANY CHANGES TO THE PARTICIPANT'S EMAIL ADDRESSES PROVIDED BY THE PARTIES IN THEIR CONTINUANCE 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.

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

Deborah Myers Cregar

Deborah Myers-Cregar

Administrative Law Judge

Office of Administrative Hearings