

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENTS ON BEHALF OF STUDENT,

V.

HAWTHORNE SCHOOL DISTRICT.

OAH CASE NUMBER 2021120504

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

MARCH 23, 2022

Student filed a due process hearing request on December 13, 2021. On March 21, 2022 OAH denied the parties' second joint request for a hearing continuance because the parties did not state any reason to support their continuance request. The parties jointly requested a third hearing continuance on March 23, 2022. The parties represented that they are actively engaging in settlement discussions after their late February 2022 mediation, and awaiting information from a third party needed to complete a settlement.

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. OAH grants this third continuance because the parties are actively engaged in settlement discussion in a relatively recently filed case. Any future requests for a hearing continuance must set forth good cause that is supported by a declaration under the penalty of perjury.

PREHEARING CONFERENCE will be held on April 22, 2022, at time 10:00 AM.

DUE PROCESS HEARING will be held on May 3, 4, and 5, 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.

IT IS SO ORDERED

*Sabrina Kong*

Sabrina Kong

Administrative Law Judge

Office of Administrative Hearings