

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2021120755

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

MARCH 10, 2022

On December 22, 2021, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming San Diego County Office of Education. On January 26, 2022, OAH granted the parties' joint request to schedule a mediation and continue the due process hearing. OAH set mediation for March 7, 2022, and the due process hearing to begin on May 3, 2022. On February 1, 2022, OAH granted Student's Motion to Amend the complaint, and set new hearing dates on March 22, through 24, 2022. Student cancelled the March 7, 2022 mediation because Student's attorney was unavailable due to a health issue. On March 9, 2022,

the parties filed a second joint request to schedule mediation and continue the due process hearing.

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 parties established good cause to reschedule mediation and participating in mediation is good cause to continue the hearing dates. All dates are vacated. This case will be set as follows:

Mediation will be held on May 4, 2022, at 9:00 AM to 4:30 PM. The mediation will be held via videoconference or telephone.

Prehearing Conference will be held on June 20, 2022, at 1:00 PM.

Due Process Hearing will be held on June 28, through 30, 2022. The hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, at the discretion of the Administrative Law Judge.

The parties must immediately notify all potential witnesses of the hearing dates, and must 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 for why it was not possible to file the motion by that date.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings