

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PALMDALE SCHOOL DISTRICT.

OAH CASE NUMBER 2022010348

ORDER GRANTING REQUEST FOR VIDEOCONFERENCE

MEDIATION AND CONTINUANCE OF PREHEARING

CONFERENCE AND DUE PROCESS HEARING

MARCH 30, 2022

On January 12, 2022S, Student filed the due process hearing request with the Office of Administrative Hearings, referred to as OAH. OAH set the matter for hearing on March 8, 2022. On February 23, 2022, OAH granted the parties joint to schedule a mediation for March 10, 2022, and continue the hearing of the matter to April 12, 2022. On March 9, 2022, the parties cancelled the pending mediation because Palmdale had not completed an assessment of Student begun after the filing of the complaint.

On March 29, 2022, the parties filed a joint motion to schedule a second mediation date and continuance of the hearing of this matter. The motion was supported by the sworn declaration of Student's attorney stating Palmdale had completed an assessment of Student and the parties had scheduled an individualized education program team meeting, called an IEP, on April 1, 2022 to review the assessment. The parties requested the matter be set for mediation on April 25, 2022, and the hearing continued to May 17, through 19, 2022.

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. Here, the parties cancelled the original mediation date after their progress in resolving the issues in the complaint led to the start of an assessment of Student necessary to resolve the remaining issues. The parties have continued to make progress and have scheduled an IEP team meeting to review the assessment. Mediation is encouraged. The request is:

Granted. All dates are vacated. The parties are on notice that no further continuances will be granted on this basis. The matter set as follows:

MEDIATION DATE is April 25, 2022, 9:00 AM to 4:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on May 6, 2022 at 1:00 PM.

DUE PROCESS HEARING will be held on May 17 through 19, 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.

A handwritten signature in black ink, appearing to read "Robert G. Martin". The signature is written in a cursive, flowing style with a prominent initial "R" and a long, sweeping underline.

Robert G. Martin

Administrative Law Judge

Office of Administrative Hearings