

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
SANTA ANA UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022030374

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

MARCH 30, 2022

On March 28, 2022, Administrative Law Judge Elsa H. Jones, Office of Administrative Hearings held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC. S. Daniel Harbottle, Attorney at Law, appeared on behalf of petitioner, Santa Ana Unified School District. Student's parent, referred to as Parent, was self-represented and appeared on behalf of herself and Student. Spanish interpreter Albert Sousa appeared

and interpreted the proceedings for Parent. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following Order:

HEARING DATES, TIMES, AND LOCATION

Santa Ana Unified moved to continue the PHC and due process hearing, and for the setting of a mediation, based on the desire of both parties to engage in mediation. However, the parties had difficulty communicating with each other so as to reach an agreement as to specific dates for the mediation and the due process hearing. No previous continuances of this matter have been sought or granted.

The motion was not filed three business days before the PHC. Santa Ana Unified established good cause for filing the motion less than three business days before this PHC, in that the parties consistently continued, in good faith, to try to communicate regarding the continuance dates. The motion was not opposed.

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).)

The request for continuance is granted for good cause. All previously scheduled dates are vacated. The case shall proceed as follows:

Mediation: April 11, 2022, from 9:00 AM to 4:30 PM.

Mediation will occur via telephone or videoconference.

PHC: May 27, 2022, at 1:00 PM.

All other prehearing matters shall be addressed at the May 27, 2022, PHC. All prehearing motions must be filed three business days before the PHC.

Due Process Hearing: June 7, 2022, through June 9, 2022.

All hearing days shall begin at 9:30 AM, unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses, if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness was not properly notified of the hearing date or properly subpoenaed.

As Parent is self-represented, OAH will translate into Spanish and provide Parent copies of pleadings and notices filed in this matter, pursuant to OAH policy.

SETTLEMENT

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

If a full and final written settlement agreement is reached after 5:00 PM the day before the hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Elsa Jones".

Elsa H. Jones

Administrative Law Judge

Office of Administrative Hearings