

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

GILROY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023110253

ORDER DENYING REQUEST TO RESCHEDULE THE
MEDIATION AND CONTINUE THE DUE PROCESS HEARING

JANUARY 29, 2024

On November 7, 2024, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Gilroy Unified School District. The Office of Administrative Hearings is referred to as OAH. On December 12, 2024, OAH granted the parties' request for a January 19, 2024 mediation and a continuance of the hearing to February 13 through 15, 2024.

On January 16, 2024, Student cancelled the January 19, 2024 mediation.

On January 26, 2024, the parties filed a joint request to reschedule the mediation for March 15, 2024, and continue the hearing to April 16 through 18, 2024. The stated grounds are that the mediation had to be cancelled because Student's counsel had a

prehearing conference on January 19, 2024, and an expedited hearing scheduled for January 23 through 25, 2024 in another matter, which dates were set by OAH after the parties agreed to the mediation and continuance dates in this case.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or

- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The parties have failed to establish good cause for rescheduling the mediation, the length of the requested continuance or explain why the matter cannot be mediated prior to March 15, 2024. The parties agreed to a mediation date of January 19, 2024, not January 26, 2024, as inaccurately asserted in the moving papers. Contrary to the argument made in the request, the expedited prehearing conference and expedited hearing in the other case did not pose a conflict with the January 19, 2024 mediation in this case because the expedited prehearing conference in other case took place on January 12, 2024, and the expedited hearing was scheduled for January 23 through 26, 2024. The parties have also failed to explain why a non-expedited prehearing conference in another case would have necessitated the cancelling of the all day mediation in this case. In any event, the parties have not offered any explanation as to why the matter cannot be scheduled for mediation prior to March 15, 2024, or otherwise justify a continuance of the hearing for another two months. Some of the matters listed in Exhibit 2 to the moving papers have either settled, been dismissed or have been continued. It is also unclear why counsel believes a Los Angeles County Superior Court appearance on January 26, 2024, is relevant to the pending request to reschedule the January 19, 2024 mediation and a continuance of the February 13 through 15, 2024 hearing.

The request is denied without prejudice. The parties may resubmit their request, curing the deficiencies discussed above. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared, unless otherwise ordered.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings