

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

VALLEJO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023120790

ORDER GRANTING MEDIATION AND DENYING REQUEST
FOR CONTINUANCE

JANUARY 22, 2024

On January 22, 2024, Parent on behalf of Student and Vallejo City Unified School District filed with the Office of Administrative Hearings, called OAH, a joint request to schedule mediation and continue the due process hearing. The parties request a mediation date of February 12, 2024, and to continue the hearing to April 23, 24, and 25, 2024. The due process hearing is currently scheduled to begin on February 13, 2024.

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' request for mediation is granted. Mediation will be held on February 12, 2024, 9:00 AM to 4:30 PM. Mediation will be held by videoconference or by telephone.

The parties failed to establish good cause to continue the due process hearing. OAH will grant a continuance of the due process hearing to allow parties to participate in mediation if the requested mediation date is after the scheduled hearing dates. Here, the mediation date requested by the parties is before the date the hearing is scheduled to begin. Accordingly, the request to continue the hearing is denied. The prehearing conference and due process hearing dates remain as scheduled.

The parties may request to reschedule the mediation to a later date, and renew their request to continue the hearing, to begin within 60 days following the mediation. If the parties seek to continue the hearing beyond 60 days after the mediation, the parties must establish good cause and explain why the parties cannot proceed with hearing within 60 days following the mediation.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings