

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

REDONDO BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023100815

ORDER FOLLOWING PREHEARING CONFERENCE AND
GRANTING REQUEST FOR CONTINUANCE OF
PREHEARING CONFERENCE AND HEARING BY
VIDEOCONFERENCE

APRIL 8, 2024

On April 8, 2024, Administrative Law Judge Sabrina Kong, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Parents appeared on Student's behalf. Attorney Kristin Myers appeared on Redondo Beach Unified School District's, called Redondo Beach, behalf. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order.

Parents represented they received a settlement agreement proposal from Redondo Beach on April 8, 2024, and require the assistance of an attorney to evaluate the settlement proposal or prepare for hearing. Therefore, Parents requested a four to six weeks hearing continuance to hire a new attorney. Parent also explained they were unaware of any hearing dates set in this case until shortly before their prior attorney withdrew as the attorney of record.

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).)

Student's case was filed on October 23, 2023. Parents demonstrated good cause for a brief hearing continuance to hire new counsel. Based on discussions at the PHC, the ALJ agreed to continue the PHC, and the hearing as follows:

PHC, HEARING DATES, TIMES, AND LOCATION

The PHC is continued to April 22, 2024, at 10:00 AM.

The hearing will take place on April 30, May 1, and 2, 2024, and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. PHC statements and motions are due to OAH no later than three business days before the PHC or with a showing of good cause why it was not timely filed.

PARTICIPANT INFORMATION SHEETS FOR THE PHC AND DUE PROCESS HEARING MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

PHC AND HEARING LOCATION

OAH is authorized to conduct PHC and due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) OAH will conduct the PHC and due process hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena>.

ADDITIONAL INFORMATION TO PARENTS

As a result of Parents' explanation that they were not aware of the hearing dates or OAH processes when they were represented by their prior attorney, OAH will resend the general orders with this Order Following PHC, so Parents are informed of OAH's processes. Additionally, the ALJ informed Parents of OAH main telephone number and website where they may find helpful information. The ALJ also informed Parents they may request mediation and suggested that if the parties mediate, they should select a mediation date before the next PHC.

ORDER INCLUDES ALL RULINGS

This order includes all rulings made at the PHC.

IT IS SO ORDERED.

Sabrina Kong

Sabrina Kong

Administrative Law Judge

Office of Administrative Hearings

cc: General Order Packet