

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

SEQUOIA UNION HIGH SCHOOL DISTRICT,

OAH CASE NUMBER 2023110714

OAH CASE NUMBER 2024010672

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING DUE PROCESS HEARING

APRIL 22, 2024

On February 14, 2024, the parties entered into a settlement agreement that required a court order under a Petition for Minor's Compromise. On February 15, 2024, the parties filed a notice of settlement with Office of Administrative Hearings, called OAH. On February 20, 2024, OAH issued an order continuing the due process hearing to April 30, 2024. On March 12, 2024, Student filed the petition in San Mateo Superior Court and a hearing date was set on August 13, 2024. On April 22, 2024, Student and Sequoia Union High School District filed a joint request to continue the due process hearing the week of September 1, 2024.

The Minor's Compromise was needed to complete the settlement agreement. The parties jointly requested a second continuance to September 4 and 5, 2024 to accommodate the superior court hearing date.

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).)

Good cause existed due to the hearing date set by the San Mateo Superior Court. In the interest of justice, a continuance of the due process hearing date to September 4 and 5, 2024 was warranted. Therefore, the request is granted. All previously scheduled dates are vacated.

DUE PROCESS HEARING will be held on September 4, and 5, 2024.

The due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, Mondays and Fridays included, 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. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the hearing dates, and must subpoena witnesses, if necessary, so they are available to testify.

Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

IT IS SO ORDERED.

Thanayi Lindsey
Thanayi Lindsey (Apr 23, 2024 17:37 PDT)

Thanayi Lindsey

Administrative Law Judge

Office of Administrative Hearings