

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

FOUNTAIN VALLEY SCHOOL DISTRICT.

OAH CASE NUMBER 2023120830

ORDER DENYING REQUEST FOR MEDIATION AND
CONTINUANCE WITHOUT PREJUDICE

APRIL 29, 2024

On January 23, 2024, OAH granted the parties' joint request to set a mediation date and continue the due process hearing in this matter. OAH set a mediation for March 1, 2024.

On February 28, 2024, the parties cancelled the mediation "due to unexpected circumstances" and asked that it be reset. On that same day OAH reset the mediation for March 19, 2024.

On March 18, 2024, the parties requested that the mediation be reset, on the ground that there had been a death in the family of a participant, who had to attend a

funeral on the mediation date. On that same day OAH reset the mediation for March 27, 2024.

The parties engaged in a full day of mediation on March 27, 2024.

On April 16, 2024, Student moved to amend his complaint. Fountain Valley did not oppose the motion and leave to amend was granted on April 18, 2024. The matter is now set for due process hearing on June 6, 2024.

On April 26, 2024, the parties jointly requested another mediation and a month-long continuance of the hearing. The parties' request was made on an OAH form for a first mediation, which does not require a separate showing of good cause. The parties made no mention of any reason to have another mediation or for another continuance.

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 not shown good cause for a second mediation or for another continuance. The fact that the complaint has been amended does remove the requirement that a second mediation in a case must be justified by a showing of good cause. The instant request is therefore denied without prejudice.

IT IS SO ORDERED.

Charles Marson

Charles Marson

Administrative Law Judge

Office of Administrative Hearings