

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024010975

ORDER DENYING JOINT REQUEST TO SCHEDULE SECOND
MEDIATION AND FOR SECOND CONTINUANCE OF
DUE PROCESS HEARING

APRIL 22, 2024

On January 31, 2024, Parents on behalf of Student filed a request for due process hearing with the Office of Administrative Hearings, called OAH, naming San Diego Unified School District, called San Diego. On February 23, 2024, OAH issued an order granting request for videoconference mediation and continuance of due process hearing. The mediation was scheduled for March 27, 2024, at 1:30 p.m. The prehearing conference was continued to April 29, 2024, and the due process hearing was continued to May 7 through 9, 2024. The parties participated in mediation on March 27, 2024, but did not resolve their dispute.

On April 19, 2024, the parties filed a joint request to schedule a second mediation and a second continuance of the due process hearing on the basis that San Diego is in the process of completing its three-year evaluation of Student. The parties intend to hold an individuated education program, called IEP, team meeting in early May 2024, to review San Diego's three-year evaluation. The parties desire a second mediation following this IEP team meeting, and to continue the due process hearing until June or July 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' joint request to schedule a second mediation and for a second due process hearing continuance is denied based upon the failure to establish good cause. Continuances based upon a desire for parties to review new information at a new IEP team meeting, whereby a new dispute could arise, could indefinitely prolong due process hearings, which is contrary to the legal requirement for a speedy resolution of due process hearings.

The parties also have not demonstrated good cause for a second mediation. An IEP to be offered in the future is not at issue in this matter and does not constitute good cause for a second mediation.

Accordingly, the parties' request to schedule a second mediation and for a second continuance of the hearing is denied because of the parties' insufficient showing of good cause. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared unless otherwise ordered.

IT IS SO ORDERED

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings