

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

UKIAH UNIFIED SCHOOL DISTRICT,

AND

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2024020419

OAH CASE NUMBER 2024020122

ORDER GRANTING JOINT REQUEST FOR CONTINUANCE  
OF PREHEARING CONFERENCE AND DUE PROCESS  
HEARING

APRIL 17, 2024

On February 2, 2024, Parent filed a case on behalf of Student with the Office of Administrative Hearings, called OAH, naming Ukiah Unified School District, called Ukiah. On February 12, 2024, Ukiah filed its case with OAH naming Parent on behalf of Student. On February 27, 2024, OAH consolidated both cases. On April 16, 2024, the parties filed a second joint request to continue the due process hearing.

The parties explained the hearing should be continued because the parties were unable to proceed with mediation on the previously requested April 10, 2024 date, because Ukiah's Director of Special Education was in a due process hearing. The parties have since rescheduled the mediation for May 2, 2024. However, the current prehearing conference is set for April 29, 2024, and hearing set for the week of May 7, 2024. The parties request that hearing be continued to June 4, 5, and 6, 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 established good cause to continue the due process hearing a second time because this is a recently filed consolidated case and the parties proceeded quickly to resolve the case in compliance with the 45-day rule. (See, 34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) However, Ukiah should have requested dates during the first joint request for a continuance that did not conflict with its own schedule. No further hearing continuances will be considered without a showing of good cause supported by declarations under the penalty of perjury by both parties.

The request is granted. All previously scheduled dates are vacated and continued as follows, except for mediation, which shall remain on May 2, 2024.

PREHEARING CONFERENCE will be held on May 24, 2024, at 10:00 AM.

DUE PROCESS HEARING will be held on June 4, 5, and 6, 2024.

The prehearing conference and 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.

*Sabrina Kong*

Sabrina Kong

Administrative Law Judge

Office of Administrative Hearings