

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT AND ANTIOCH
UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030160

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

APRIL 19, 2024

On April 19, 2024, Administrative Law Judge Laurie Gorsline, 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.

Attorney Nicole Hodge Amey appeared on behalf of Student. Attorney Diane Beall appeared on behalf of San Francisco Unified School District. Attorney Eric Stevens appeared on behalf of Antioch Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

CONTINUANCE OF THE DUE PROCESS HEARING

On March 1, 2024, Student filed a request for due process hearing naming San Francisco Unified and Antioch Unified. The due process hearing is currently scheduled for April 30 through May 2, 2024. On April 17, 2024, Student filed a motion to continue the hearing to begin on May 21, 2024, because Student's attorney is scheduled for hearing in an earlier filed matter on the same dates. On April 18, 2024, San Francisco Unified and Antioch Unified each filed statements of non-opposition to Student's continuance request.

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.) Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The request is granted. Based on Student counsel's scheduled hearing in an earlier-filed matter on the same dates as the scheduled hearing in this case, the ALJ

finds good cause for the continuance of the hearing to May 21 through 23, 2024. The new dates are as follows:

PREHEARING CONFERENCE will be held on May 10, 2024, at 1:00 PM.

DUE PROCESS HEARING will be held on May 21 through 23, 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. PHC statements and motions are due to OAH no later than three business days before the PHC. Late motions will only be considered if good cause is established for the late filing.

Student's counsel is reminded that papers sent to OAH after 5:00 PM are not deemed filed with OAH until the following business day. Student's counsel is also reminded that care should be taken to ensure that the information contained in her papers filed with OAH be complete and accurate. Student's counsel shall read Antioch Unified's notice of non-opposition to the motion to continue. Antioch Unified's attorney shall email Student's counsel a copy of the notice of non-opposition if Student's counsel notifies Antioch Unified's counsel that she did not receive a copy.

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.

PARTICIPANT INFORMATION FORM

Student shall file a Participant Information Form at least two business days before the next event. San Francisco is also required to file a Participant Information Form at least two business days before the next event if the case is still pending against it at that time.

All parties have an ongoing obligation to ensure that OAH has current information on the Participant Information Form filed with OAH and shall file an updated Form as necessary. The Participant Information Form is not served upon the opposing party. The ongoing obligation to ensure that the Participant Information Form filed with OAH is current does not change the parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing. The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions, including the required information no later than 5:00 PM at least two business days before the first day of hearing.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting [OAH Secure e-file](https://www.applications.dgs.ca.gov/oah/oahsftweb) at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings