

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:
PARENTS ON BEHALF OF STUDENT,

and

HUNTINGTON BEACH CITY SCHOOL DISTRICT,
OAH CASE NUMBER 2024030550
OAH CASE NUMBER 2023110497

ORDER FOLLOWING PREHEARING CONFERENCE
GRANTING REQUEST FOR CONTINUANCE

APRIL 22, 2024

On April 22, 2024, Administrative Law Judge Jennifer Kelly, 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 Madeline Knutson appeared on behalf of Student. Attorney Karen Van Dijk appeared on behalf of Huntington Beach City School District, called Huntington Beach. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following Order:

HEARING DATES, TIMES, AND LOCATION

DUE PROCESS HEARING

On April 19, 2024, OAH issued an order granting Student's motion to consolidate. OAH designated Student's case as primary for purposes of complying with the statutory deadlines. The due process hearing is currently scheduled for April 30 through May 2, 2204.

At the start of the PHC, the parties requested that the due process hearing be continued to May 29 through 30, 2024; the dates previously scheduled for Huntington Beach's case, for the purpose of allowing the parties to participate in mediation. The parties confirmed they have not yet participated in mediation and wish to attend mediation on April 29, 2024, as previously scheduled in Huntington Beach's case.

A due process hearing must be conducted, and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness, or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice

to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

The request for continuance is granted for good cause. Special education laws and OAH encourage parties to resolve claims through mediation without the need for a due process hearing. The parties established good cause for a continuance to allow them to participate in mediation. The case shall proceed as follows:

MEDIATION DATE is April 29, 2024, 9:00 a.m. to 4:30 p.m.

MEDIATION will occur by telephone or video.

ANY CHANGE TO THE PARTICIPANTS' EMAIL ADDRESSES PROVIDED BY THE PARTIES IN THEIR REQUEST MUST BE FILED TWO BUSINESS DAYS BEFORE THE SCHEDULED EVENT.

PHC will be held on May 17, 2024, at 10:00 a.m.

The PHC will be conducted by videoconference. All other prehearing matters shall be addressed at the May 17, 2024, PHC. All prehearing motions must be filed three business days before the PHC.

DUE PROCESS HEARING will be held on May 29 through 30, 2024. The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the ALJ. All other prehearing matters shall be addressed at the May 17, 2024 PHC. All prehearing motions must be filed three business days before the PHC or a showing of good cause as to why the motion was not timely filed.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses, if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

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 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

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

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the PHC. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings