

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

ORANGE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2024050435

OAH CASE NUMBER 2024020908

ORDER DENYING REQUEST FOR CONTINUANCE

JUNE 13, 2024

On February 27, 2024, Orange Unified School District filed a request for due process hearing, complaint, with the Office of Administrative Hearings, OAH, naming Student. On February 28, 2024, OAH issued a scheduling order setting a prehearing conference, PHC, for March 8, 2024, and a hearing for March 19, 20, and 21, 2024.

On March 7, 2024, OAH issued an order granting the Parties' joint request for mediation and continuance setting mediation on May 6, 2024, PHC on May 13, 2024, and hearing on May 21, 22, and 23, 2024.

On Thursday, May 2, 2024, at approximately 4:57 PM, Student filed a notice cancelling the mediation set for Monday, May 6, 2024, simply indicating they could not mediate but would reschedule.

On May 8, 2024, Student filed a complaint with OAH, naming Orange. On May 8, 2024, Student also filed a motion to consolidate Student's case with Orange's case.

On May 15, 2024, OAH granted the motion to consolidate Student's case with Orange's case, designating Student's case as the primary case. OAH set the matter for hearing on the dates scheduled in Student's case, scheduling a PHC for June 17, 2024, and a hearing for June 25, 26, and 27, 2024.

On June 13, 2024, the parties filed a joint request for continuance seeking mediation on July 9, 2024, PHC to be set by OAH, and hearing on July 30, 2024, through August 1, 2024.

The Parties' filed their request two business days before the PHC.

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 scheduling orders filed in both cases require that parties file motions three business days prior to the PHC, or else show good cause as to why the motion could not have been filed sooner. Moreover, OAH requires a second request for continuance be supported with good cause for delaying the matter further. This matter has been pending since February 2024. The parties do not seek a lengthy additional continuance and request mediation before hearing. However, the parties provide no good cause for waiting one month after the matters were consolidated to obtain a new mediation date. They provide no cause for cancelling the originally scheduled mediation and have a history of canceling mediations at the last minute.

The request is denied. The parties failed to state good cause for their late filed motion and failed to state good cause for requesting a second mediation and additional continuance of a matter pending since February 2024.

All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings