

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
MADERA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024050882

ORDER FOLLOWING PREHEARING CONFERENCE
CONTINUING PREHEARING CONFERENCE AND DUE
PROCESS HEARING BY VIDEOCONFERENCE

JUNE 10, 2024

On June 10, 2024, Administrative Law Judge Sabrina Kong, 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 Kidd Crawford appeared on Madera Unified School District's, called Madera, behalf. No one appeared on Student's behalf. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order.

OAH inadvertently failed to serve Parent with the May 24, 2024 Scheduling Order giving notice of this PHC and the currently scheduled hearing which was scheduled to start on June 18, 2024. As a result, the ALJ continues this PHC and hearing to ensure Parent is properly served with notice of the new PHC and hearing dates.

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).)

Failure to serve Parent with the Scheduling Order is good cause for a brief PHC and hearing continuance. At the PHC, the ALJ continued the PHC and the hearing as follows:

PHC, HEARING DATES, TIMES, AND LOCATION

The PHC is continued to July 12, 2024, at 10:00 AM.

The hearing will take place on July 23, 24, and 25, 2024, and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. PHC statements and motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why it was not timely filed.

PARTICIPANT INFORMATION SHEETS FOR THE PHC AND DUE PROCESS HEARING MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

PHC AND HEARING LOCATION

OAH is authorized to conduct PHC and due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) OAH will conduct the PHC and due process hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena>.

ORDER INCLUDES ALL RULINGS

This order includes all rulings made at the PHC.

IT IS SO ORDERED.

Sabrina Kong

Sabrina Kong

Administrative Law Judge

Office of Administrative Hearings