

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
WALNUT CREEK SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.
OAH CASE NUMBER 2024060070

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE GRANTING REQUEST
FOR CONTINUANCE

JUNE 14, 2024

On June 14, 2024, Administrative Law Judge Theresa Ravandi, 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 Rebecca Buchsbaum appeared on behalf of Walnut Creek School District. Father appeared on behalf of Student. Mother did not appear. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

WALNUT CREEK'S REQUEST TO CONTINUE

On June 11, 2024, Walnut Creek filed a motion to continue the due process hearing because of the unavailability of several key witnesses. The motion to continue was supported by several sworn declarations. During the PHC, both parties were heard as to the continuance request. Father opposed a continuance, although he would like to participate in mediation. Walnut Creek also wants to participate in mediation but was unable to propose a June mediation date at the time of the PHC. The parties will discuss proposed mediation dates and will promptly file a request to schedule mediation with OAH.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may only be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Walnut Creek established good cause to continue the PHC and hearing dates due to the unavailability of several necessary witnesses. In consideration the medical unavailability of one witness and scheduling conflicts for other witnesses and Walnut Creek's counsel, this matter will be set as follows:

The Prehearing Conference is continued to August 19, 2024, at 10:00 AM. Any prehearing motions shall be filed three business days prior to the continued prehearing

conference or with a showing of good cause as to the late filing. PHC statements are due three business days prior to the PHC.

The Due Process Hearing is continued to August 27, 28, and 29, 2024, and shall proceed 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.

PARTICIPANT INFORMATION SHEETS FOR THE PREHEARING CONFERENCE AND HEARING DATES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

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

SETTLEMENT

The parties are encouraged to work 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 prehearing conference and hearing. Dates for the prehearing conference and hearing will not be cancelled

unless a letter of withdrawal or signature page of a signed settlement agreement has been received and processed by OAH. 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.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the PHC.

IT IS SO ORDERED.

Theresa Ravandi

Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings