

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

PAJARO VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024040892

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING CONFERENCE, AND
DUE PROCESS HEARING

JULY 16, 2024

On May 20, 2024, the parties filed a joint request for mediation and to continue the due process hearing with the Office of Administrative Hearings, called OAH. OAH granted that request on May 21, 2024, setting a mediation for June 14, 2024, and due process hearing starting July 30, 2024. On June 13, 2024, Student canceled the mediation due to a medical emergency.

On July 15, 2024, the parties filed second joint request for mediation and to continue the due process hearing approximately one month to afford the parties an opportunity to participate in mediation. The parties had not been able to immediately

reschedule a mediation after Student canceled because Pajaro Valley Unified School District's attorney was ill.

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 parties established good cause to continue the due process hearing based on their desire and willingness to participate in mediation and conserve resources by attempting to resolve the matter without a due process hearing. The parties did not establish good cause for the length of the continuance of the due process hearing date.

The request is granted. All previously scheduled dates are vacated. The new dates are:

MEDIATION will be held on August 2, 2024, 9:00 AM to 4:30 PM.

PREHEARING CONFERENCE will be held on August 9, 2024, at 3:00 PM.

DUE PROCESS HEARING will be held on August 20, 21, and 22, 2024.

The mediation, 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. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference. Late motions will only be considered if good cause is established for the late filing.

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.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings