

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030547

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

JULY 25, 2024

On March 15, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming San Diego Unified School District, called San Diego. On May 9, 2024, the parties mediated the case. On June 26, 2024, OAH granted Student's request to amend the complaint and reset the prehearing conference, called a PHC, to August 5, 2024, and due process hearing to start on August 13, 2024.

On July 24, 2024, the parties jointly requested a second mediation and a hearing continuance to the week of September 10, 2024. The request was accompanied by a

declaration under the penalty of perjury from San Diego's attorney, Nicholas Felahi, representing that the parties wished to mediate the additional issues in the amended complaint. Attorney Felahi also represented he has a vacation from August 5 to 9, 2024, scheduled before OAH reset the PHC and hearing dates.

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 request is granted. The parties showed good cause for a brief hearing continuance due to their desire to mediate new issues and San Diego's attorney's unavailability on the date set for the PHC. All previously scheduled dates are vacated. The new dates are:

MEDIATION will be held on August 21, 2024, at 9:00 AM to 4:30 PM.

PREHEARING CONFERENCE will be held on August 26, 2024, at 10:00 AM.

DUE PROCESS HEARING will be held on September 10, 11 and 12, 2024.

The mediation, PHC, 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, and at the discretion of the Administrative Law Judge. PHC 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.

*Sabrina Kong*

Sabrina Kong

Administrative Law Judge

Office of Administrative Hearings