

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SANGER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024051037

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING CONFERENCE AND

HEARING

JULY 29, 2024

On May 24, 2024, Student filed a request for a due process hearing with the Office of Administrative Hearings, called OAH, naming Sanger Unified School District. On June 14, 2024, OAH granted the parties' joint request for mediation and continuance, setting the mediation on June 20, 2024, prehearing conference on August 2, 2024, and hearing on August 13-15, 2024. On June 19, 2024, Student cancelled the mediation as a pending independent educational evaluation had not been completed.

On July 26, 2024, the parties filed a joint request for mediation and continuance of hearing to allow the parties to mediate on August 8, 2024, and to continue the hearing to October 8-10, 2024.

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 for a brief continuance to accommodate the requested mediation. However, the parties did not establish good cause to continue the hearing another two months following the mediation. Accordingly, the request for continuance is granted but not for the length of time requested. The new dates are:

MEDIATION will be held on August 8, 2024, 9:00 AM to 12:30 PM.

PREHEARING CONFERENCE will be held on August 16, 2024, at 10:00 AM.

DUE PROCESS HEARING will be held on August 27, 28, and 29, 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.

Rita Defilippis

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings