

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024060625

AMENDED ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING PREHEARING CONFERENCE
AND HEARING

SEPTEMBER 20, 2024

On September 17, 2024, Student filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. On September 18, 2024, San Dieguito filed a non-opposition. The parties attached sworn declarations to their filings, explaining their requested dates for hearing based on their counsel's unavailability due to conflicts on multiple previously filed cases with hearing dates in conflict with the currently scheduled dates for hearing in this matter.

On September 19, 2024, the undersigned ALJ issued an order granting Student's request for continuance which erroneously scheduled the hearing on different dates

than requested, and on dates where San Dieguito had established its counsel's unavailability due to representation in a due process hearing filed earlier in time to this matter. On September 20, 2024, San Dieguito filed a Motion For Reconsideration, requesting hearing dates as originally requested. This amended order corrects the mistake in the undersigned's September 19, 2024, order, and grants Student's request to continue the hearing to the original dates requested by both parties, but beginning November 13, 2024, due to the Veteran's Day holiday.

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).)

Both Student and San Dieguito established good cause for their requested continuance of hearing pursuant to their sworn declarations. Accordingly, their request to continue the hearing is granted. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on November 4, 2024, at 3:00 PM.

DUE PROCESS HEARING will be held on November 13, and 14, 2024. The date requested for the first day of hearing is unavailable due to the preceding holiday.

The 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