BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024060974

ORDER GRANTING REQUEST FOR CONTINUANCE OF DUE PROCESS HEARING

NOVEMBER 5, 2024

On June 26, 2024, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, also called OAH, naming Grossmont Union High School District, referred to as Grossmont Union District. On July 31, 2024, OAH issued an Order Granting Parties' Joint Request for a Videoconference Mediation and Continuance of the Prehearing Conference. The mediation was set for August 27, 2024, and the Prehearing Conference, also called PHC, was set for September 27, 2024. The due process hearing was set for October 8, 9, and 10, 2024.

On October 1, 2024, Student filed a Motion to Continue the Due Process Hearing due to a conflict with another OAH due process hearing in case number 2024030862.

On October 2, 2024, OAH denied Student's motion as Student failed to meet and confer with opposing counsel for mutually agreeable dates for a continuance. On October 4, 2024, Student filed a subsequent Motion to Continue the Due Process Hearing after meeting and conferring with Grossmont District and obtaining mutually agreeable dates for the continuance. On October 7, 2024, OAH granted Student's subsequent motion to continue the hearing to November 5, 6, and 7, 2024.

On October 31, 2024, Student requested a 30-day continuance due to a conflict with OAH case number 2024070499, an ongoing case with hearing dates on November 5, 6, 7, and 12, 2024. Student did not meet and confer with Grossmont Union District to obtain mutually agreeable dates for a continuance. On October 31, 2024, OAH denied Student's motion; however, the parties were not prevented from filing a subsequent motion to continue after meeting and conferring for availability dates after November 13, 2024, or soon thereafter.

On November 4, 2024, Student filed a subsequent Motion for Continuance of the Due Process Hearing indicating after meeting and conferring, Student and Grossmont Union District obtained mutually agreeable dates of January 7, 8, and 9, 2025.

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).)

Student established good cause to continue the due process hearing. Student's attorney is unavailable because of an excusable circumstance of a scheduling conflict with a pending due process hearing in another OAH case. Because Student's attorney established good cause to continue the due process hearing dates of November 5, 6, and 7, the motion is granted.

All previously scheduled hearing dates are vacated.

DUE PROCESS HEARING will be held on January 7, 8, and 9, 2025.

The 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.

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.

Thanayi Lindsey
Thanayi Lindsey (Nov 5, 2024 08:48 PST)

Thanayi Lindsey
Administrative Law Judge
Office of Administrative Hearings