

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024070411

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE AND GRANTING
REQUEST FOR MEDIATION AND CONTINUANCE OF THE
DUE PROCESS HEARING

AUGUST 16, 2024

On August 16 ,2024, Administrative Law Judge Laurie Gorsline, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

No one appeared on behalf of Student. Patrick Balucan, Attorney at Law, appeared on behalf of Los Angeles Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

REQUEST FOR MEDIATION AND CONTINUANCE OF THE DUE PROCESS HEARING

On August 15, 2024, the parties filed a joint request for a mediation on October 9, 2024, and a continuance of the hearing to November 26 and 27, 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.) Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The request is granted. Based on all the circumstances, the ALJ finds good cause for granting the requested continuance so the parties can participate in mediation. This is the first continuance request and the parties have not previously participated in mediation. In addition, Student has failed to file a PHC statement containing a concise statement of the issues as required by the OAH scheduling order as further addressed below. Student's counsel is admonished for failing to file a PHC Statement and appear at the PHC. District is admonished for failing to file a timely PHC statement. Both

parties are admonished for failing to file the request for mediation and continuance at least three days before the PHC. The mere filing the request did not relieve counsel of their obligations to timely file PHC statements and appear at the PHC. Any further violations of OAH order may result in dismissal and/or the imposition of sanctions. The new dates are as follows:

MEDIATION will be held on October 9, 2024, at 1:30 PM to 5:00 PM.

PREHEARING CONFERENCE will be held on November 15, 2024, at 10:00 AM.

DUE PROCESS HEARING will be held on November 26 and 27, 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. PHC statements and motions are due to OAH no later than three business days before the PHC. 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.

PREHEARING CONFERENCE STATEMENTS

Because Student failed to file a complaint PHC statement, the scope of the issues Student intended to have OAH adjudicate at hearing is unclear. The complaint is vague and lacks the specificity necessary for the ALJ to determine the issues for hearing.

Accordingly, Student's counsel is ordered to timely file a PHC statement clarifying the issues for hearing no later than three business days before the next PHC.

More specifically, regarding Student's Issue 1, Student shall identify each individualized education program, or IEP, by date, which failed to offer an appropriate placement and for each IEP, identify which services were insufficient. Regarding Issue 2, for each assessment Student alleges should have been conducted, Student shall identify when each assessment should have first been conducted. Regarding Issue 3, Student shall identify each IEP by date which failed to develop appropriate goals and objectives, and for each IEP, identify which goals offered were inappropriate, if any, and identify the goals which should have been offered but were not, if any. Regarding Issue 4, Student shall specify which psychoeducational assessment is at issue by date and what was omitted from it. Regarding Issue 5, Student shall identify each IEP by date which Student contends was predetermined, and for each IEP at issue, what part of the IEP was predetermined. Regarding Issue 6, Student shall identify each IEP by date which Student contends was not implemented, and for each IEP at issue, identify the state and District testing not implemented, and the period it was not implemented.

District shall also timely file an updated PHC statement before the next PHC.

PARTICIPANT INFORMATION FORMS

Both parties are admonished for failing to file timely Participant Information Forms. Any further violations may result in the imposition of sanctions. The parties are ordered to file a Participant Information Form at least two days before the next PHC.

Both parties have an ongoing obligation to ensure that OAH has current information on the Participant Information Form filed with OAH and shall file an updated Form as necessary. The Participant Information Form is not served upon the

opposing party. The ongoing obligation to ensure that the Participant Information Form filed with OAH is current does not change the parties' statutory obligation to timely disclose their witnesses to the other party(s) at least five business days prior to hearing. The parties must file an updated Participant Information Form to inform OAH of any changes, additions, or deletions, including the required information no later than 5:00 PM at least two business days before the first day of hearing.

DISTRICT'S RESPONSE TO THE COMPLAINT

OAH has not received a copy of District's response to Student's complaint. District shall file its response with OAH within three business days from the date of this PHC. (*M.C. v. Antelope Valley Unified School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting OAH Secure e-file at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings