BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PLEASANTON UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2023120389

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

MARCH 18, 2024

On March 18, 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.

Shawn Olson Brown and Aisha Sleiman, Attorneys at Law, appeared on behalf of Pleasanton Unified School District. Parent appeared on behalf of Student. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

REQUEST FOR CONTINUANCE AND DUE PROCESS HEARING

On December 29, 2024, OAH granted Student's unopposed motion to continue the hearing on the grounds Parent was having Student evaluated by an expert, and so the parties could participate in mediation.

On March 13, 2024, Student filed a second request for continuance of the hearing to May 14 through 16, 2024 on the grounds the expert witness is unavailable because of an alleged delay by another school district in setting up a contract with Student's assessor. Pleasanton filed opposition to the motion on March 15, 2024. The request was addressed at the PHC.

At the PHC, Pleasanton withdrew its opposition because its counsel is now scheduled to begin an expedited hearing in another matter on March 19, 2024, which hearing is estimated to take through at least March 27, 2024, to complete. Parent also estimated that the assessment of Student would be completed in approximately a month. Pleasanton did not oppose the hearing dates proposed by Parent.

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 Pleasanton's conflict with the current hearing dates and Parent's estimate that the assessment will be completed in about a month, the ALJ finds good cause to continue the hearing. However, this case was filed in December 2023, and this is the second continuance. As such, OAH is not inclined to grant any further continuances. The new dates are as follows:

PREHEARING CONFERENCE will be held on May 3, 2024, at 1:00 PM.

DUE PROCESS HEARING will be held on May 14 through 16, 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. Both parties are ordered to file new PHC statements at least three business days before the next PHC. In its PHC statement, Pleasanton shall clarify its second issue as discussed during the PHC, as reflected on the record. 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.

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.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings