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

OCTOBER 7, 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. On July 31, 2024, OAH issued an order granting the parties' joint request for a mediation and continuance, setting the mediation for August 27, 2024, prehearing conference, also called PHC, for September 27, 2024, and due process hearing for October 8, 9, and 10, 2024.

On August 27, 2024, the parties participated in mediation. On September 27, 2024, the parties participated in the PHC.

On October 1, 2024, Student filed a motion to continue the due process hearing for approximately 30 days. Student supported the motion with a declaration from counsel, Timothy Adams. Adams stated that he has acted as student's chosen attorney in this and another matter, OAH case number 2024030862. In the declaration, Adams stated the hearing in OAH case number 2024030862 began October 1, 2024, and would proceed through October 17, 2024.

On October 2, 2024, OAH issued an order denying Student's request to continue the hearing as the parties had not met and conferred on mutually agreeable dates for the continuance.

On October 4, 2024, Student filed a motion to continue the hearing date, for the same reasons previously set forth, after meeting and conferring with Grossmont Union. The parties agreed to continue the hearing to November 5 through 7, 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).)

Student established good cause to continue the due process hearing based upon counsel's unavailability created by a conflict with a hearing in progress. The parties met and conferred regarding mutually agreeable dates for a continuance.

The request is granted. All dates are vacated. This matter will be set as follows:

Due Process Hearing will be held on November 5 through 7, 2024. The hearing shall begin at 9:30 AM and end at 3:30 PM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

PARTICIPANT INFORMATION SHEETS, OR ANY CHANGES THERTO, FOR HEARING MUST BE FILED AT LEAST TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings