RGBEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

WEST COVINA UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2025090487

OAH CASE NUMBER 2025090130

ORDER FOLLOWING PREHEARING CONFERENCE, DENYING DISTRICT'S MOTION TO DISMISS, EXTENDING PROCEDURAL TIMELINES, AND GRANTING DISTRICT'S MOTION FOR CONTINUANCE

OCTOBER 24, 2025

On October 20, 2025, Administrative Law Judge Robert G. Martin, 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.

Attorneys Ryan Bailey and Brian Harrington appeared for the Law Offices of Sheila Bayne on behalf of Student. Attorney Alefia Mithaiwala appeared on behalf of West Covina Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

DISTRICT'S MOTION TO DISMISS STUDENT'S CASE FOR FAILURE TO PARTICIPATE IN MANDATORY RESOLUTION SESSION

Student filed his due process hearing request in this case on September 12, 2025. On September 19, 2025, OAH granted Student's unopposed motion to consolidate West Covina's case with Students case, and made Student's case primary, with the consolidated matters proceeding on the dates set for hearing in Student's Case. On October 15, 2025, West Covina filed a motion to dismiss for Parents' failure to participate in a mandatory resolution session. Student did not respond to West Covina's motion before the PHC. The parties argued West Covina's motion at the PHC.

Within 15 days of receiving a student's complaint, a local educational agency is required to hold a resolution session with the parents and the student's relevant individualized education program team members. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1) (2006). The parties may forego the resolution session by either agreeing to use the mediation process or by waiving the resolution session in writing. (34 C.F.R. § 300.510(a)(3).) If the local educational agency is unable to obtain parental participation in the resolution session after making reasonable efforts, the local educational agency may request dismissal of the due process complaint, after conclusion of the 30-day resolution period. (34 C.F.R. § 300.510(b)(4).) The purpose of the resolution session is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the complaint, so that the local educational agency

has an opportunity to resolve the dispute that is the basis for the due process complaint. (20 U.S.C. § 1415 (f)(1)(B)(i)(IV); 34 CFR 300.510(a)(2).)

West Covina supported its motion with the declaration of its attorney Alefia Mithaiwala. West Covina established it did not waive the resolution session, and made repeated unsuccessful efforts to obtain Parent's participation in a resolution session between September 18, 2025 and October 15, 2025.

On September 18, 2025, attorney Mithaiwala's office emailed Student's attorneys Sheila Bayne and Ryan Song, and non-attorney contact James Peters to inquire whether the Law Offices of Sheila Bayne and Parents would be available to attend a resolution session for the expedited issues on September 24, 2025, at 9:30 A.M. No one from the Law Offices of Sheila Bayne responded.

Seven subsequent emails to attorney Bayne, attorney Song, and Peters seeking to arrange a resolution session also went unanswered. West Covina's attorney's office sent these emails on September 23, 24, 26, and 30, 2025, and October 2, 10, and 14, 2025.

Student's attorneys who attended the PHC were unaware of West Covina's motion to dismiss, had no knowledge of the history of the communications, or attempted communications, regarding a dispute resolution session, and had no ability to access the records of the Law Offices of Sheila Bayne during the PHC to obtain potentially relevant information. Their opposition to West Covina's motion was based on their uncertainty as to the relevant facts and law, and was not persuasive.

West Covina established a resolution session was required, and that West Covina made reasonable efforts to obtain parental participation before filing its motion to dismiss. Dismissal without prejudice of Student's case would ordinarily be warranted on these facts, which would leave West Covina's case to proceed to hearing as scheduled. However, on the same day it filed its motion to dismiss, West Covina also filed a motion

to continue the hearing of the consolidated cases from October 28, 2025 to December 2, 2025, based on the unavailability of West Covina's Director of Special Education and/or attorney Mithaiwala on potential hearing dates from October 28 through November 20, 2025. Rather than dismissing Student's case and continuing West Covina's, the interests of judicial economy would be better served by extending the procedural deadlines in the consolidated cases, with Parents to participate in a resolution session by a date certain. If the consolidated matters do not resolve at resolution session, both cases may then be heard in one hearing, avoiding duplication of witnesses, documents, and factual issues.

Accordingly, the motion to dismiss is denied and the timeline to complete a resolution session is extended.

DISTRICT'S MOTION TO CONTINUE DUE PROCESS HEARING DATES

On October 15, 2025, West Covina filed a motion for continuance due to unavailability of the school district's director of special education and counsel for hearing dates through the beginning of December 2025. Student did not respond to the motion.

A due process hearing must be conducted, and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances when ruling on continuance requests. (Cal. Rules of Court, rule 3.1332(d).)

The further scheduling order contemplated by the ALJ at the PHC is not necessary. West Covina's Motion to continue the due process hearing dates is granted for good cause due to the unavailability established by West Covina and by the need to extend statutory timelines to accommodate holding a resolution session. All previously scheduled dates are vacated. The consolidated matter shall proceed as follows:

PREHEARING CONFERENCE: November 21, 2025, 1:00 PM.

DUE PROCESS HEARING: December 2, 3, and 4, 2025.

All other prehearing matters shall be addressed at the November 21, 2025 PHC. All prehearing motions must be filed three business days before the PHC.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

STUDENT'S COUNSEL IS CAUTIONED TO HAVE ATTORNEYS FAMILIAR WITH THE CASE ATTEND PROCEEDINGS

The Law Offices of Sheila Bayne acted egregiously by failing to respond to West Covina's repeated attempts to schedule a mandatory resolution session, and by representing Student at the prehearing conference through attorneys unfamiliar with Student's case file and unaware of a pending motion to dismiss. While attorneys are not required to attend resolution sessions, they may do so. Whether an attorney or non-attorney represents Student at the resolution session, they must be familiar with this consolidated matter, to fulfill the purpose of the resolution requirement, which is to discuss the facts underlying the due process complaint and to provide an opportunity to

resolve the underlying dispute. Likewise, Student is cautioned to have counsel knowledgeable about this consolidated matter, including the history of filings and proceedings, attend the PHC and hearing.

ORDER

1. District's motion to dismiss is denied without prejudice.
2. The procedural timelines in the consolidated cases are extended by 30 days from the date of this order.
3. The parties are ordered to hold a resolution session within 15-calendar days of the date of this order and to file a notice in writing within 30-days of the date of this order indicating whether the resolution session was held or waived, at which time dismissal may be appropriate.
4. All previously scheduled dates in this matter are vacated.
5. District's motion to continue the due process hearing is granted. The prehearing conference will be held at 1:00 PM on November 21, 2025. The due process hearing will be held on December 2, 3, and 4, 2025.

IT IS SO ORDERED.



Robert G. Martin
Administrative Law Judge
Office of Administrative Hearings