BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT

v.

SANTA BARBARA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022040550

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING HEARING DATES

SEPTEMBER 7, 2022

On September 6, 2022, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request to continue this matter, based upon conflicts with Student's counsel's out-of-state conference and other scheduled litigation matters.

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; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. Counsel's pre-arranged out-of-state conference is not good cause for a continuance. This matter was previously continued on May 23, 2022, at the joint request of the parties to dates chosen by the parties. The conflict with the conference is one that counsel created, and continuances are not granted because of date conflicts with non-legal commitments. However, the parties also seek the continuance because of a conflict with OAH case #2022020266, which has priority as an earlier-filed matter and one which will not be further continued. The parties represent that the proposed dates for hearing are the earliest jointly-available dates. Finding good cause because of the case conflict, the request is:

Granted. All dates are vacated. This matter will be set as follows:

A second prehearing conference will be held Friday, November 18, 2022, at 1:00 PM. A prehearing conference for this matter was held on September 2, 2022, but the parties have specifically requested that another take place. The parties are directed to file PHC statements not later than November 15, 2022, raising any issues not resolved at or emerging after the September 2, 2022, PHC.

Due Process Hearing will be held on Tuesday, November 29, 2022, through Thursday, December 1, 2022. The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with evidence of good cause why it was not possible to file the motion by that date.

No further continuances will be granted in this matter absent extraordinary good cause.

IT IS SO ORDERED.

Chris Butchko

Chris Butchko
Administrative Law Judge
Office of Administrative Hearings