BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MISSION VISTA ACADEMY.

OAH CASE NUMBER 2022020611

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE, AND CONTINUING PREHEARING CONFERENCE AND DUE PROCESS HEARING

APRIL 13, 2022

On April 11, 2022, 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.

Parents appeared on behalf of Student. Courtney Brady, Attorney at Law, appeared on behalf of Mission Vista Academy, referred to as Mission Vista. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

PARTIES' JOINT MOTION TO CONTINUE THE PREHEARING CONFERENCE AND HEARING

Student filed Student's amended due process hearing request in this matter on March 9, 2022. The matter was set for hearing on April 19 through 21, 2022, and has not been continued previously.

On April 6, 2022, Mission Vista filed a motion to continue the hearing date, only, in this matter. The motion was supported by a sworn declaration, and was based on a conflict between the hearing dates in this matter, and the hearing dates in a case filed before this matter, OAH Case number 2022010227. Hearings in both matters were set for April 19 through 21, 2022, and Mission Vista's attorney was the attorney in both cases.

At the start of the PHC, Parents stated they were in an emergency room for treatment of a medical emergency. The parties jointly requested the prehearing conference and hearing both be continued.

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).)

The request for continuance was granted at the April 11, 2022 PHC for good cause based on Parents' medical emergency and the unavailability of Mission Vista's attorney on the original hearing dates. All previously scheduled dates were vacated. The case shall proceed as follows:

PREHEARING CONFERENCE will be held on April 25, 2022 at 3:00 PM.

DUE PROCESS HEARING will be held on May 3 through 5, 2022.

PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

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. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why it was not timely filed.

IT IS SO ORDERED.



Robert G. Martin
Administrative Law Judge
Office of Administrative Hearings