BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

LEMOORE UNION ELEMENTARY SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022080193

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

AUGUST 18, 2022

On August 18, 2022, Parent on behalf of Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter. Student's request is based on Parent's desire for additional time to obtain attorney representation and to complete independent educational evaluations. Lemoore Union Elementary School District opposed the motion and Student replied to the opposition.

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. The request is:

Granted. All dates are vacated. The continuance request is granted as Student established good cause for a continuance based upon Parent's desire for additional time to obtain attorney representation. This matter will be set as follows:

Prehearing Conference will be held on October 17, 2022, at 1:00 PM. The Prehearing Conference will be held by videoconference.

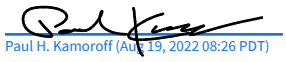
Due Process Hearing will be held on October 25, 2022, through October 27, 2022. The hearing will be held by videoconference. The hearing shall begin at 9:30 AM each

day and end at approximately 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.

Mediation is voluntary and to be determined by the parties. If the parties wish to mediate this matter, they shall jointly submit an agreeable mediation date to OAH as soon as possible, as OAH will not continue this matter further absent a showing of extraordinary good cause.

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.

IT IS SO ORDERED.



Paul H Kamoroff
Administrative Law Judge
Office of Administrative Hearings