BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CRUZ CITY SCHOOLS.

OAH CASE NUMBER 2020021270

ORDER FOLLOWING PREHEARING CONFERENCE GRANTING MEDIATION AND CONTINUANCE OF HEARING BY VIDEOCONFERENCE

MAY 08, 2020

On May 8, 2020, Administrative Law Judge Laurie Gorsline, 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; and a prehearing conference is called a PHC.

Parent appeared on behalf of Student. Laurie Reynolds, Attorney at Law, appeared on behalf of Santa Cruz City Schools. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

At the PHC, both parties requested the opportunity to participate in mediation on May 21, 2020 to attempt to resolve the dispute, and a continuance of the hearing.

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 mediation is granted. A continuance of the hearing is granted for good cause demonstrated on the record during the PHC. All previously scheduled dates are vacated. The case shall proceed as follows:

MEDIATION

The mediation will be held on May 21, 2020, 9:00 AM to 4:30 PM. The mediation will occur via telephone or video. Please see attached Order Setting Telephonic and Video Mediation Procedures. Unless otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

PREHEARING CONFERENCE

The PHC shall take place on June 29, 2020 at 10:00 AM.

All other prehearing matters shall be addressed at the June 29, 2020 PHC. All prehearing motions must be filed three business days before the PHC. The parties shall comply with the Order Setting Video Prehearing Conference Procedures, including filing a Participant Information for Prehearing Conference and Video Due Process Hearing form. Unless otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

DUE PROCESS HEARING

The hearing will take place on July 14 through July 16, 2020 and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (5 C.C.R. § 3082, subd. (g).) Based on state and federal guidance to address safety procedures due to the novel coronavirus, COVID-19, OAH will conduct the due process hearing by videoconference using the Microsoft Teams application. Unless

otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered a showing good cause to continue the hearing.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at https://www.applications.dgs.ca.gov/oah/oahsftweb.

If a full and final written settlement agreement is reached after 4:00 p.m. the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

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Laurie Gorsline
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Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings