BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

PALOS VERDES PENINSULA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020070598

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING DUE PROCESS HEARING

DECEMBER 23, 2020

The Office of Administrative Hearings, referred to as OAH, held a due process hearing in this case on December 16, 17, and 22, 2020. On December 22, 2020, on the record, the parties requested a continuance of the hearing to January 11, 2021. The parties also requested additional hearing dates of January 19, through 21, 2021. On December 18, 2020, Student's attorney filed a declaration, under the penalty of perjury, which stated the attorney is unavailable to participate in the hearing on January 12, through 15, 2021.

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. The assigned judge is unavailable to preside over the hearing on December 28, 2020, through January 8, 2021. The next available hearing date is January 11, 2021. Further, the unavailability of Student's attorney on January 12, through 15, 2021, is good cause to continue the hearing to January 19, 2021. Thus, additional hearing dates will be scheduled as follows:

Due Process Hearing will be held on January 11, 2021, and January 19, through 21, 2021. The hearing will begin at 9:30 AM, and generally end at 3:30 PM, on all days unless otherwise ordered. The hearing will continue day to day, as needed, at the discretion of the Administrative Law Judge.

The parties must immediately notify all potential witnesses of the hearing dates, and must 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. The parties must file any changes to the participants' email addresses at least two days before the next hearing date.

IT IS SO ORDERED.

Tara Doss

Tara Doss
Administrative Law Judge
Office of Administrative Hearings