BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT

v.

GOLETA UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2022020266

ORDER GRANTING JOINT REQUEST FOR CONTINUANCE

AUGUST 11, 2022

On August 9, 2022, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request to continue this matter to allow an additional two weeks to complete an independent educational assessment of Student's speech and language needs. This matter was previously continued on Student's motion as part of the prehearing conference order issued on May 13, 2022.

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 previous continuance was granted because the chosen independent assessor had become unreachable. Student considered the assessor's report and the testimony of the independent assessor to be essential to his case. The request was granted on those grounds, over Goleta Union School District's objection. Now, the parties have returned to seek and additional two weeks to complete the assessment, and propose continuing the hearing to the first jointly available hearing dates, roughly one month from those currently assigned. Given that a new mutually agreeable assessor had to be and was identified and retained to conduct the assessment, the parties have been diligent in preparing for hearing and minimized the delay of proceedings. As the request is jointly made and further continuance is necessary to give effect to the one granted on May 13, 2022, good cause exists to grant the request. The request is:

Granted. All dates are vacated. The continuance request is granted with a modification. This matter will be set as follows:

Prehearing Conference will be held on September 12, 2022, at 1:00 PM. The requested 10:00 AM time slot is not available on that day.

Due Process Hearing will be held on September 27 through 29, 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.

No further continuances shall be granted in this matter absent 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.

Chris Butchko

Chris Butchko
Administrative Law Judge
Office of Administrative Hearings