BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

VICTOR ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2023020497

# ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE; AND ORDER GRANTING CONTINUANCE OF PREHEARING CONFERENCE AND DUE PROCESS HEARING

MAY 12, 2023

On May 12, 2023, Administrative Law Judge Sabrina Kong, 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.

Parent appeared on Student's behalf. Attorney Lauri Arrowsmith appeared on Victor Elementary School District's, called Victor, behalf. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order.

On May 9, 2023, Student's attorney withdrew as the attorney of record. Parent requested a continuance of the PHC and hearing so he could retain another attorney. Attorney Arrowsmith did not object to the continuance. She stated that some of Victor's witnesses may not be available during the summer, but will inform OAH once she obtains information as to specific witnesses' availability. The ALJ reminded Attorney Arrowsmith that OAH does not accept a party's contention that witnesses are generally unavailable during the summer as good cause to continue the hearing. The parties agreed to a hearing in July 2023.

## PHC, HEARING DATES, TIMES, AND LOCATION

The PHC is continued to July 7, 2023, at 10:00 AM.

The hearing will take place on July 18, 19, and 20, 2023, 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. PHC 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.

PARTICIPANT INFORMATION SHEETS FOR THE PHC AND DUE PROCESS HEARING MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) OAH will conduct the due process

hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

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 good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena.

## 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 by visiting OAH Secure e-file at https://www.applications.dgs.ca.gov/oah/oahsftweb. 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 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.

## ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference.

## IT IS SO ORDERED.

*Sabrina Kong*

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings