BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN JUAN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080864

# ORDER GRANTING REQUEST FOR CONTINUANCE

OCTOBER 19, 2022

On October 19, 2022, prior to convening the fifth day of the due process hearing, Student requested a continuance of the hearing due to Student's attorney being ill. Student requested to continue the hearing to November 1, 2022, to accommodate the work schedule of Student's expert witness Theresa Edwards. San Juan Unified School District objected to the continuance request.

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 for continuance is granted due to the illness of Student's attorney. The hearing is continued to November 1, 2022, at 9:00 AM, and the parties shall be prepared to proceed to 4:30 PM. The matter will also be set for hearing on November 2, 2022, at 9:30 AM.

Student shall subpoena Edwards to testify on November 1, 2022, at 9:00 AM. Student shall serve its subpoena on Edwards no later than 5:00 PM on October 21, 2022, and Student shall file a copy of the served subpoena with OAH no later than 5:00 PM, on October 24, 2022. Student's failure to subpoena Edwards to testify will not be considered good cause to continue the hearing. The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena any other witnesses, if necessary, to ensure the witnesses appear to testify.

The parties shall meet and confer no later than October 28, 2022, to discuss scheduling witnesses for the remaining dates for hearing, and how much time each witness will take. Parties shall upload electronically a joint proposed witness schedule in the Witness Schedules section of Case Center no later than October 28, 2022.

IT IS SO ORDERED.

*Rommel P. Cruz*

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings