BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CHAFFEY JOINT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2020010259

ORDER GRANTING IN PART AND DENYING IN PART REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

APRIL 29, 2020

On April 23, 2020, Chaffey Joint Union High School District filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon the unavailability of Chaffey Joint Union's attorney Jonathan Read. Mr. Read is scheduled to be in another due process hearing for an earlier filed case on the same dates as the hearing in this matter. Additionally, Chaffey Joint Union asserts that due to the mandates that California has placed in response to the COVID-19 pandemic, Chaffey Joint Union has been unable to obtain records from its facilities and ensure that its

witnesses can participate in the due process hearing through videoconference. Chaffey Joint Union proposed to continue the matter to July 21, 22, and 23, 2020.

On April 28, 2020, Parents on behalf of Student filed an opposition to the motion, contending that good cause has not been established to continue the due process hearing beyond the first week of June 2020.

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 in part and denied in part. All dates are

vacated. However, good cause has not been established to demonstrate the need to continue the matter to July 21, 2020, and why Chaffey Joint Union could not proceed with the hearing in June 2020. Therefore, this matter will be set as follows:

Prehearing Conference will be held on May 22, 2020, at 1:00 PM.

Due Process Hearing will be held on June 2, 3, and 4, 2020. 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.

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.

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Rommel P. Cruz
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Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings