BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

HANFORD ELEMENTARY SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022050318

ORDER GRANTING STUDENT'S REQUEST FOR CONTINUANCE AND RESETTING HEARING DATES

JUNE 02, 2022

On June 2, 2022, Student filed with the Office of Administrative Hearings, referred to as OAH, a request for a short continuance of the hearing, based upon Parents need for more information on the OAH hearing process. On June 2, 2022, Hanford Elementary School District opposed the request based upon the request being untimely, prejudicial to both Hanford and Student, and lacking good cause.

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 current hearing dates are vacated and reset as explained below. The continuance request is granted as evidencing good cause. Parents had been directed by the ALJ to contact the OAH case manager for assistance with electronic filing and such other pro per assistance as OAH provides. The PHC concluded after 4:00 PM on Friday, May 27, 2022. The next business was Tuesday, May 31, 2022.

Although made after the PHC, the request is timely as arising only after the PHC had occurred. Lastly, any prejudice to Hanford or Student, is outweighed by the necessity of Parents' need for basic due process in their representation of Student.

Hanford's various scheduling conflicts with Parents proposed dates will be resolved as further explained below.

Due Process Hearing will be held on June 21, 2022, through June 23, 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.

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. **Hanford's necessary witness, Boa Moua, their school psychologist, will testify as the first witness at hearing, beginning on June 21, 2022. The parties are directed to conduct a further meet and confer by 5:00 PM on June 10, 2022 in order to address any remaining issues for them to resolve regarding witnesses and evidence, including but not limited to the joint witness schedule.**

IT IS SO ORDERED.
Ted Mann

Ted Mann
Administrative Law Judge
Office of Administrative Hearings