BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

ALTA LOMA ELEMENTARY SCHOOL DISTRICT,

OAH CASE NUMBER 2019120223

and

ALTA LOMA ELEMENTARY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2019090362

ORDER GRANTING REQUEST FOR CONTINUANCE

On September 10, 2019, Alta Loma Elementary School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case

number 2019090362, naming Student. The Office of Administrative Hearings is referred to as OAH.

On September 26, 2019, OAH granted the parties' joint continuance request, rescheduling that hearing to begin on December 17, 2019. The parties participated in mediation on October 22, 2019.

On December 4, 2019, Student filed a Request for Due Process Hearing in OAH case number 2019120223, naming Alta Loma. On December 6, 2019, Student filed a motion to amend his complaint and to consolidate his case with Alta Loma's case. Alta Loma objected to consolidation because its case had been pending for almost three months when Student filed his case, and because delaying the hearing would maintain Student in a stay-put placement that Alta Loma asserts is inappropriate. By Orders dated December 11, 2019, OAH allowed the amendment of Student's complaint and granted consolidation over Alta Loma's objection. OAH set Student's amended complaint and the consolidated matter for hearing on the currently-scheduled hearing dates of February 4-6, 2020.

On December 31, 2019, Student moved to continue the hearing dates on various grounds, including counsel's family travel plans beginning February 6, 2020, the pendency of other mediations and hearings, and the fact that Student's sibling also has an upcoming hearing. Student sought various lengths of continuance, the soonest available dates being February 11-13, 2020. However, Student argued for a longer length continuance into March, on the grounds that upcoming independent evaluations scheduled for February would provide valuable evidence for Student's case, concerning his appropriate placement and services.

On January 7, 2020 Alta Loma opposed the continuance request, arguing that the matter has been pending since it filed its case on September 10, 2019. Alta Loma argued that the case was continued once, then further continued due to the consolidation. Alta Loma argued that it is prejudiced by further delay, because the stay-put placement should not be further extended. Alta Loma further argued that Student's grounds for continuance do not constitute good cause. Alta Loma further argued that Student's counsel knew the grounds for his continuance request and should have filed his motion sooner. Finally, Alta Loma requested, if a continuance is granted, that the matter be set for the soonest available dates, February 11-13, 2020, when its counsel is also free. On January 7, 2020, Student filed a reply to Alta Loma's opposition.

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. All dates are vacated. The continuance request is granted for good cause. Student's counsel is unavailable due to the excusable circumstances of family travel plans on February 6. However, to minimize the delay, and to accommodate Alta Loma's counsel's availability, the matter will be set for the shortest of the available continuances proposed by the parties. This matter will be set as follows:

Prehearing Conference will be held on February 3, 2020, at 1:00 PM.

Due Process Hearing will be held on February 11, 2020 through February 13, 2020. The hearing shall begin at 9:30 AM the first day, and at 9:00 AM on all other 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.

DATED: January 8, 2020

DocuSigned by:
June Lehrman
36F2B322672E4CB...

June Lehrman
Administrative Law Judge
Office of Administrative Hearings