BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

V.

ETIWANDA SCHOOL DISTRICT AND

CHAFFEY JOINT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2020120161

ORDER GRANTING REQUEST TO CONTINUE DUE PROCESS HEARING AND SETTING PREHEARING CONFERENCE

APRIL 06, 2021

On April 5, 2021, Student, Etiwanda School District and Chaffey Joint Union High School District filed a joint request to continue the due process hearing in this matter, currently set for April 6 through 8, 2021. The motion was made on grounds that Student's attorney is caring for a family member with an acute illness. The supporting declaration of Student's attorney states that both attorneys in this matter have multiple due process hearing dates calendared in the next several months, and were unable to agree on continued hearing dates before the end of the 2020-2021 school year. The parties requested hearing dates of August 17 through 19, 2021, when classes at both

districts are to resume following the summer break in classes, and the districts can ensure the availability of district witnesses.

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 supporting declaration of Student's attorney satisfied the requirements of good cause to continue the hearing dates in this matter to the end of the regular school year, based on the immediate unavailability of Student's attorney, and the hearing schedules of both attorneys through the end of the regular school year.

However, due process hearings are not suspended during the summer break in classes, and the parties did not establish through declaration that attorneys for the parties, or material witnesses, are unavailable on all dates from the end of the regular school year to August 17, 2021.

The parties' joint request for a continuance therefore is:

Granted. All dates are vacated, and the matter set as follows:

Prehearing Conference: May 28, 2021 at 10:00 AM.

The prehearing conference will be conducted by videoconference. The parties shall be prepared to confirm information from the previous February 19, 2021 prehearing conference, or update it as needed. The parties shall file prehearing conference statements identifying any information that needs to be updated. All prehearing motions must be filed three business days before the PHC.

Due Process Hearing will be held on June 8, 9 and 10, 2021.

The Due Process Hearing will be conducted by videoconference. 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.

IT IS SO ORDERED.



Robert G. Martin
Administrative Law Judge
Office of Administrative Hearings