BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

PALOS VERDES PENINSULA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020070598

ORDER GRANTING REQUEST FOR CONTINUANCE OF HEARING DATES AND SETTING MEDIATION DATE

NOVEMBER 13, 2020

On November 12, 2020, the parties jointly filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, in order to hold a further session of mediation.

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 for good cause as a short continuance to permit the parties to participate in further mediation to resolve the matter between themselves. This matter will be set as follows:

Mediation will be held on Tuesday, November 17, 2020, at 9:00 AM to 4:30 PM. The mediation will be held by Teleconference on MS Teams. Parties are advised to check the Office of Administrative Hearings' website for updates regarding mediations and to promptly notify the Office of Administrative Hearings as to location change or cancellation.

The Prehearing Conference, referred to as a PHC, has already been held on Monday, November 9, 2020, and the resultant PHC Order, dated November 9, 2020, will control the hearing issues and procedures in this matter.

The Due Process Hearing will be held on December 16, 2020 through December 17, 2020. The parties' request to set additional hearing days on January 5, through January 7, 2021, will be addressed on the first day of hearing. The hearing shall begin at 9:30 AM and end at 3:30 PM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

Hearing Location: By Teleconference on MS Teams.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

If a full and final written settlement agreement is reached after 5:00 PM the day before the hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at https://www.applications.dgs.ca.gov/oah/oahsftweb.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

Ted Mann
Ted Mann (Nov 13, 2020 11:32 PST)

Ted Mann
Administrative Law Judge
Office of Administrative Hearings