BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022110728

ORDER FOLLOWING PREHEARING CONFERENCE GRANTING REQUEST FOR CONTINUANCE FOR NON-EXPEDITED DUE PROCESS HEARING

DECEMBER 12, 2022

On December 12, 2022, Administrative Law Judge Cynthia Fritz, Office of Administrative Hearings, held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC. Attorney Kaitlyn Tucker appeared on behalf of Sacramento City Unified School District. Parent appeared on behalf of Student. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

Sacramento City Unified School District moved to continue the non-expedited portion of this due process hearing from December 20, 2022, to January 10, 2023, because the non-expedited matter in OAH case number 2022110614 begins on the same day and it involves the same parties. The motion was timely filed three days before the hearing. Student opposed the motion and did not want any delays in the hearing.

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).)

The request for continuance is granted for good cause due to the unavailability of the parties who are scheduled to appear for an expedited due process hearing for a previously filed matter. However, Sacramento City did not establish good cause to January 10, 2023. Thus, a short continuance of the non-expedited matter is granted. All current non-expedited dates in this matter are vacated. The case will proceed as follows:

PREHEARING CONFERENCE is December 23, 2022, at 10:00 AM.

All other prehearing matters will be addressed at the December 23, 2022 PHC. All prehearing motions must be filed three business days before the PHC.

DUE PROCESS HEARING is January 4 and 5, 2023.

The hearing will be conducted via telephone or videoconference and will begin at 9:30 AM and end at 3:30 PM on all days, unless otherwise ordered. The hearing will continue day to day at the discretion of the ALJ.

The parties will immediately notify all potential witnesses of the hearing dates, and will 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.

OTHER PENDING ISSUES

Parent represented that she would upload Student's evidence in Case Center today by end of the business. The parties and the ALJ will discuss Sacramento City Unified School District's motion to compel on the first day of the expedited hearing on December 13, 2022.

Sacramento City Unified School District offered to provide Parent a room with a laptop and camera at the Sacramento City Unified School District's district office for this matter and the Student filed matter but would need some notice to get the room set up. Parent declined the offer at the PHC and was going to try to get access to another laptop but would think about it. The ALJ stated that this matter would be discussed on the first day of the expedited hearing on December 13, 2022.

SETTLEMENT

The parties will 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 will 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 will 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 will 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.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings