BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PALM SPRINGS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022090902

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING VIDEOCONFERENCE PREHEARING CONFERENCE AND HEARING

January 4, 2023

On January 3, 2023, the parties filed with the Office of Administrative Hearings, referred to as OAH, a joint request to continue this matter six days due to the unavailability of Palm Springs's counsels based upon the need to care for a family member following a recently scheduled surgery. The parties requested to continue the hearing to January 25, 2023, due to the unavailability of Student's counsel on January 24, 2023, due to her need to attend a previously scheduled matter.

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 parties' request for continuance was timely filed more than three days before the currently scheduled prehearing conference. The parties have established good cause for a brief continuance based on Palm Springs's counsel's unavailability on the currently scheduled dates for hearing, and Student's counsel's unavailability on January 24, 2023, due to a conflict with a prior scheduled event. Accordingly, the request for continuance is:

Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference will be held on January 13, 2023, at 10:00 AM.

Due Process Hearing will be held on January 25, and 26, 2023. 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. 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.

Rita Defilippis

Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings