BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

SEQUOIA UNION HIGH SCHOOL DISTRICT,

OAH CASE NUMBER 2023110714

OAH CASE NUMBER 2024010672

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING DUE PROCESS HEARING

FEBRUARY 20, 2024

On February 15, 2024, Student and Sequoia Union High School District filed a joint notice of settlement with the Office of Administrative Hearings, OAH. The parties' joint motion to vacate the hearing dates based on settlement is deemed a motion to continue for the purpose of seeking a Minor's Compromise.

The parties contend the hearing should be continued because they have entered into a settlement agreement that was approved by Sequoia Union's governing board on February 14, 2024, but the agreement is not fully effective until court approval of a

Minor's Compromise. The parties request for the matter to be continued until the Minor's Compromise is approved.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or

- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The parties established good cause to continue the due process hearing for approval of a Minor's Compromise.

The request is granted. All previously scheduled dates are vacated. The new dates are:

DUE PROCESS HEARING will be held on April 30, 2024, through May 2, 2024.

The matter shall proceed on the above dates unless the parties dismiss the consolidated matter or seek further continuance because the Minor's Compromise has not yet been achieved.

The due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, Mondays and Fridays included, at the discretion of the Administrative Law Judge. Motions are due to OAH no later than three business days before the due process hearing. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the hearing dates, and must subpoena witnesses, if necessary, so they are available to testify. Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings