BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

TRIVIUM CHARTER SCHOOL.

OAH CASE NUMBER 2020010158

ORDER GRANTING REQUEST FOR CONTINUANCE

JANUARY 31, 2020

On January 30, 2020, Student filed with the Office of Administrative Hearings a request to continue this matter, based upon Trivium Charter School's inadvertent mistake in serving exhibits on Student four business days in advance of the hearing instead of five as required by Education Code section 56505, subdivision (e)(7). Student requested a continuance of one day, or the opportunity to serve additional documents on Trivium. In a response filed on January 30, 2020, Trivium did not oppose Student's request and proposed several methods by which it would accept service of additional documents.

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. The continuance request is granted as there is good cause to delay the hearing for one day. This matter will be set as follows:

Due Process Hearing will be held on Wednesday, February 5, 2020, through Thursday, February 6, 2020. The hearing shall begin at 9:30 AM the first day, and at 9:00 AM on all other 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.

DocuSigned by:
Cararea Lucier
761F5E42057B4A1...

Cararea Lucier

Administrative Law Judge

Office of Administrative Hearings