BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT AND

THE ACCELERATED SCHOOL CHARTER SCHOOL.

OAH CASE NUMBER 2020090002

ORDER FOLLOWING PREHEARING CONFERENCE, VACATING ORDER OF DISMISSAL, GRANTING REQUEST FOR CONTINUANCE, AND DENYING OTHER MOTIONS AS MOOT

NOVEMBER 30, 2020

On November 30, 2020, Administrative Law Judge Chris Butchko, 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. Heather Zakson, Attorney at Law, appeared on behalf of Student. Anahid Hoonanian, Attorney at Law, appeared on behalf of Los Angeles Unified School District.

Karen Gilyard, Attorney at Law, appeared on behalf of the Accelerated School Charter School. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

The parties jointly moved to continue the prehearing conference and due process hearing based on scheduling issues and the need to observe the provision of services to Student. The parties requested a brief continuance.

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. All previously scheduled dates are vacated. The case shall proceed as follows:

PREHEARING CONFERENCE: January 11, 2021, at 10:00 AM.

HEARING: January 26 through 28, 2021. Hearing shall begin at 9:30 AM each day.

All other prehearing matters shall be addressed at the January 11, 2021, prehearing conference. All prehearing motions must be filed three business days before the PHC.

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.

OTHER PENDING MOTIONS

OAH dismissed The Accelerated School Charter School on November 25, 2020, following the filing that day of Student's Notice of Settlement against that party. At the PHC, Student's counsel clarified that Student did not wish the matter dismissed at this time. Accordingly, without opposition by the Charter School, the ALJ informed the parties that the dismissal would be vacated. The dismissal of The Accelerated School Charter School is hereby vacated.

Student's Request to Stay Order, filed on November 30, 2020, is denied as moot. Student's Notice of Settlement and Request to Vacate Dates, filed on November 25, 2020, is also denied as moot, given the resolution above.

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.

Chris Butchko

Chris Butchko
Administrative Law Judge
Office of Administrative Hearings