BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022120076

ORDER SETTING VIDEOCONFERENCE STATUS CONFERENCE

SEPTEMBER 21, 2023

On June 27, 28, and 29, 2023, July 12, 13, 25, 26, and 27, 2023, and August 1, 2023, Student and Capistrano Unified School District, participated in a videoconference due process hearing with the Office of Administrative Hearing, called OAH. Administrative Law Judge Deborah Myers-Cregar presided over the hearing. The Administrative Law Judge is called ALJ. OAH granted the parties a continuance of the hearing to September 5, 2023, for the submission of written closing briefs. The decision due date is October 2, 2023. After the completion of the hearing, ALJ Myers-Cregar had a medical emergency. Accordingly, a videoconference status conference is required to discuss the impact of the medical emergency on the completion of the decision.

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. (See 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; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

Therefore, a videoconference status conference will be held with Presiding Administrative Law Judge Tara Doss on Monday, September 25, 2023, at 11:00 AM, to discuss how this case will proceed considering ALJ Myers-Cregar's medical emergency. OAH will send the parties a meeting link. The parties are requested to file with OAH by 5:00 PM on September 22, 2023, their preference as to the following two options:

1. A two-week continuance to allow ALJ Myers-Cregar to complete the decision, or

2. Reassigning the decision to another ALJ.

If both parties select option one, OAH will cancel the status conference, and the new decision due date will be October 16, 2023.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Presiding Administrative Law Judge

Office of Administrative Hearings