

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

**IN THE CONSOLIDATED MATTERS OF:
PARENT ON BEHALF OF STUDENT,**

v.

**LOMPOC UNIFIED SCHOOL DISTRICT,
OAH CASE NUMBER 2019040859**

and

LOMPOC UNIFIED SCHOOL DISTRICT,

v.

**PARENT ON BEHALF OF STUDENT,
OAH CASE NUMBER 2019070446**

**ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND DUE PROCESS HEARING**

On April 18, 2019, Student filed with the Office of Administrative Hearings, a Request for Due Process Hearing in case number 2019040859, Student's Case, naming Lompoc Unified School District. Office of Administrative Hearings will be

referred to as OAH. A Request for Due Process Hearing is also referred to as a complaint. Lompoc Unified School District will be referred to as Lompoc.

On July 9, 2019, Lompoc filed a complaint in case number 2019070446, Lompoc's Case, naming Student. On July 22, 2019, OAH consolidated Student's Case and Lompoc's Case. On July 31, 2019, Student filed a Motion to Amend her complaint and an amended complaint in Student's Case. On August 6, 2019, OAH granted Student's motion to amend the complaint. OAH reset the hearing dates to October 1, 2, and 3, 2019.

On September 11, 2019, Student filed with OAH a request to continue this matter supported by a declaration under the penalty of perjury that Student's expert witness was unavailable on October 1, 2, and 3, 2019. She further represented that both she and Lompoc's attorney have another hearing on those dates. She requested that the PHC be held on October 11, 2019 at 1:00 p.m., and the due process hearing be held on October 23, 24, 29, and 30, 2019. On September 13, 2019, Lompoc filed a non-opposition.

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. Student has demonstrated good cause for a brief hearing continuance. The request is:

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

The prehearing conference will be held on October 11, 2019 at 1:00 PM.

The Due Process Hearing will be held on October 23 and 24, 2019. 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. Student's attorney requested a third and fourth day of hearing, on October 29 and 30, 2109 which shall be considered by the Administrative Law Judge on the first day of hearing.

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.

DATED: September 13, 2019

DocuSigned by:
Sabrina Kong
6159FBB6742E44F...

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings