

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

**IN THE MATTER OF:
EAST SIDE UNION HIGH SCHOOL DISTRICT,**

v.

**PARENT ON BEHALF OF STUDENT.
OAH CASE NUMBER 2019090167**

ORDER FOLLOWING PREHEARING CONFERENCE

On September 23, 2019, Administrative Law Judge Cynthia Fritz Office of Administrative Hearings held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The Office of Administrative Hearings will be referred to as OAH.

Eliza McArthur, Attorney at Law, appeared on behalf of East Side Union High School District. Parents did not appear. The undersigned attempted to contact Parents at 1:00 PM and 1:10 PM and left messages at two separate phone numbers but did not reach Parents. Ms. McArthur represented to the ALJ that an email was received from Mother on September 21, 2019, requesting mediation on October 17, 2019. The email also stated that Parents were available for a prehearing conference on September 26 or October 3, 2019.

MOTIONS

Based upon the new information obtained on September 21, 2019, Ms. McArthur requested a continuance in this matter to mediate the case. She confirmed that her office is available for mediation on October 17, 2019, and requested a hearing continuance to November 5, 2019, because she has two prior OAH cases set the last week of October. The matter was filed by East Side on September 5, 2019, and this is the first continuance in this matter.

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; 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).)

OAH reviewed the request for good cause and considered all relevant facts and circumstances. East Side established good cause to request a continuance on the date of the prehearing conference based upon the new information obtained on September

21, 2019, and also established good cause to continue the case in order to mediate. The request to continue the hearing is GRANTED. All dates are vacated.

The parties have until September 30, 2019, to jointly request the October 17, 2019 mediation date. Please include alternative mediation dates in the request.

The Prehearing Conference is set for October 25, 2019, at 1:00 PM. Any prehearing conference motions are to be filed with OAH no later than three business days prior to the prehearing conference in this matter.

The Due Process Hearing is set for November 5, 6, and 7, 2019, and continuing day to day, as needed at the discretion of the Administrative Law Judge. The first day of hearing will begin at 9:30 AM, and all other hearing days will begin at 9:00 AM.

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 of properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATED: September 25, 2019

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Cynthia Fritz
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Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings