BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

RIVERSIDE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2022030740

OAH CASE NUMBER 2022040196

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING DATES

JUNE 23, 2022

On June 16, 2022, Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon the unavailability of Student's counsel and several witnesses on the dates assigned. On June 21, 2022, Riverside Unified School District 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).)

Here, the parties jointly requested and were granted a continuance of the hearing to dates at the end of June 2022, but when Student amended her complaint in May 2022, OAH issued a new scheduling order with hearing dates in early July 2022. The sworn declaration of Student's counsel establishes that counsel has a pre-paid family vacation from June 30, 2022 through July 7, 2022, which overlaps the dates currently scheduled for the hearing, and that Student has been notified by Riverside that several employees will not be available as witnesses on the scheduled hearing days. Student requests a short continuance to August 2, 2022 through August 4, 2022. Riverside's non-opposition states that necessary witnesses will be available from August 2, 2022 through August 4, 2022.

OAH has considered all relevant facts and circumstances. The unavailability of Student's counsel and witnesses, in light of the short continuance period sought, establishes good cause for a continuance. The request is granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference will be held on July 22, 2022, at 1:00 PM.

Due Process Hearing will be held on August 2, 2022 through August 4, 2022. The hearing shall begin at 9:30 AM on all 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. 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.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings