BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CHULA VISTA ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2023050586

ORDER GRANTING REQUEST TO EXTEND BRIEFING TIME

NOVEMBER 14, 2023

On October 12, 2023, the final day of hearing in this matter, the parties were ordered to file a closing brief by November 7, 2023. On that date the record in this matter would be closed.

On November 3, 2023, the parties filed a joint request to continue to extend the briefing to November 13, 2023, because of an illness in district's counsel's family.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the

Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or
- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Here the hearing was completed on October 10, 2023, but the record was left open until November 7, 2023, to permit filing of written closing briefs. Because district's counsel had an unforeseen illness in the family, good cause existed to continue the closing brief, and record closure, to November 13, 2023. The parties were notified by

phone on November 3, 2023, that the continuance would be granted, and an order would follow. The closing briefs were due, and received, on November 13, 2023. The record is now closed.

IT IS SO ORDERED.



Brian H. Krikorian
Administrative Law Judge
Office of Administrative Hearings