BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2015030347

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

On July 31, 2015, the Office of Administrative Hearings, referred to as OAH, issued a decision in this matter. On August 15, 2019, OAH received an order remanding the matter back to OAH. OAH issued a scheduling order on August 19, 2019, setting the prehearing conference for August 23, 2019, and the due process hearing on September 4, and 5, 2019. On August 20, 2019, Student filed a request to continue this matter based upon needing more time to prepare and a desire to mediate. Manhattan Beach Unified School District does not oppose the continuance request.

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. The request is:

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

Prehearing Conference will be held on September 27, 2019, at 1:00 PM.

Due Process Hearing will be held on October 15, 2019, through October 17, 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.

The parties are expected to meet and confer regarding a mediation date. If the parties wish to mediate they are to request a date prior to the September 27, 2019 prehearing conference.

Prehearing conference statements are due to OAH no later than three business days before the prehearing conference. Parties are to define the issues in their prehearing conference statements as they see them based on the order remanding the matter to OAH. During the PHC the Administrative Law Judge will address the issues for 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. All prehearing 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.

DocuSigned by:
Linda Johnson
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DATED: August 23, 2019

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings