BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ALTA LOMA SCHOOL DISTRICT.

OAH CASE NUMBER 2017120979

ORDER GRANTING STUDENT'S REQUEST FOR CONTINUANCE AND SETTING TRIAL SETTING CONFERENCE

On July 19, 2019, Student filed with the Office of Administrative Hearings, known as OAH, a Notice of Partial Reversal of OAH Decision and of Remand. On July 23, 2019, OAH issued an Order Scheduling Trial Setting Conference After Remand and Setting Deadline for Trial Setting Conference Briefs, which set the trial setting conference for August 19, 2019.

On August 6, 2019, Student filed a request to continue the Trial Setting Conference until September 6, 2019, at 3:00 PM, as Student's attorney has a prepaid vacation. The declaration of Student's attorney stated that Alta Loma School District agreed to Student's continuance request and proposed date.

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. The continuance request is granted as Student demonstrated good cause. This matter will be set as follows:

Trial Setting Conference will be held on September 6, 2019, at 3:00 PM.

By no later than September 3, 2019, at 5:00 PM, the parties shall submit trial setting conference briefs, and proposed hearing dates within 60 days of the trial setting conference, if a hearing is required.

The trial setting conference briefs shall specify the remedies the parties consider to be appropriate to be awarded on remand in light of the District Court's July 18, 2019 Findings of Facts, Conclusions of Law, and Judgment, which remanded thus case to OAH for the limited determination of whether Alta Loma School District's unnecessary delay affected Student's or Parents' substantive rights under the Individuals with Disability Education Act, and if so, what Student's remedy should be in light of the fact that Alta Loma apparently already reimbursed Student's parents for Dr. Douglas Stephey's Independent Educational Evaluation.

Parties are also to address whether further evidentiary proceedings are required and the parties' legal entitlement to such a hearing, or if adequate evidence exists in the administrative record. At the trial setting conference, the parties shall be prepared to discuss all matters set forth in their trial setting conference briefs.

IT IS SO ORDERED.

DocuSigned by:
Peter Paul Castillo
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DATED: August 07, 2019

Peter Paul Castillo
Presiding Administrative Law Judge
Office of Administrative Hearings