BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

STOCKTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024050547

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

JUNE 11, 2024

On June 6, 2024, Stockton Unified School District filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. On June 11, 2024, Student opposed the request.

Stockton contends the hearing should be continued because Parents and Stockton are currently scheduled for a due process hearing on the same dates in an earlier-filed case concerning Parents' other child. Parents filed OAH case number 2024050109 regarding another child on May 2, 2024, then filed this case regarding Student on May 10, 2024. OAH set both matters for prehearing conferences on

June 14, 2024, and due process hearings on June 25, 26, and 27, 2024. The same law firm represents Parents in both cases, and Stockton is represented by the same attorneys for both cases. Student contends the hearing should not be continued because Student has a statutory right to a timely hearing and Student does not consent to any delay.

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).)

Stockton established good cause to continue the due process hearing in the later-filed case for three weeks. A brief continuance affords Stockton, its administrative representative, and its attorneys the opportunity to participate in and conclude the due process hearing of the earlier-filed matter for Parents' other child before beginning the due process hearing for Student.

The request is granted. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on July 8, 2024, at 3:00 PM.

DUE PROCESS HEARING will be held on July 16, 17, and 18, 2024.

The prehearing conference and due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, Mondays and Fridays included, at the discretion of the Administrative Law Judge. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the hearing dates, and must subpoena witnesses, if necessary, so they are available to testify. Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings