BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023100346

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING

NOVEMBER 16, 2023

On October 11, 2023, Student filed a request for due process hearing naming Manhattan Beach Unified School District as respondent. A scheduling order, issued October 12, 2023, advised the parties hearing was scheduled to begin November 28, 2023. On November 14, 2023, Manhattan Beach moved to continue the hearing dates to March 5 through March 7, 2024, based on its counsel's hearing conflicts. As of the date of this order, OAH had received no response to the motion from Student.

Declarations from both counsel for Manhattan Beach describe hearing conflicts for the week of November 28, 2023. Manhattan Beach's moving papers note that conversations with Student's counsel revealed Student did not agree to the continuance.

OAH must conduct a due process hearing and render a decision within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

In this case, good cause is established to continue the hearing based on Manhattan Beach's counsel's hearing conflicts, involving earlier filed cases, during the week of November 28, 2023. However, no good cause has been established for a continuance to March 5, 2023.

The request for continuance is granted, however, not for the length of time requested. The new dates are:

PREHEARING CONFERENCE will be held on December 1, 2023 at 10:00 AM.

DUE PROCESS HEARING will be held on December 12, 13, and 14, 2023.

The prehearing conference, and due process hearing will be held by videoconference 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 evidence of good cause is submitted for the late filing.

The parties must immediately give potential witnesses notice of 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.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings