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 MEDIATION, PREHEARING CONFERENCE AND 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 did not oppose the continuance request. OAH granted the request on August 23, 2019, setting the prehearing conference for September 27, 2019, and hearing for October 15 through 17, 2019.

On September 20, 2019, the parties filed a joint request to continue this matter to permit the parties to participate in mediation.

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 to permit the mediate this dispute. This matter will be set as follows:

Mediation will be held on November 12, 2019, at 9:30 AM to 4:30 PM. The mediation will be held at Manhattan Beach Unified School District, 325 South Peck Avenue, Manhattan Beach, CA 90266.

Prehearing Conference will be held on December 2, 2019, at 1:00 PM. Prehearing Conferences are scheduled at least one week before the scheduled hearing dates to ensure that parties can comply with any orders in the Prehearing Conference Order.

Due Process Hearing will be held on December 10, 2019, through December 12, 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 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. Prehearing conference statements and 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:
Peter Paul Castillo
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DATED: September 23, 2019

Peter Paul Castillo
Presiding Administrative Law Judge
Office of Administrative Hearings