BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

DOWNEY UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2022120336

OAH CASE NUMBER 2022120179

ORDER GRANTING IN PART AND DENYING IN PART REQUEST FOR CONTINUANCE AND SETTING MEDIATION AND DUE PROCESS HEARING

JANUARY 6, 2023

On January 5, 2023, parties jointly filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter in its entirety. In this consolidated matter, Student's case has a pending expedited matter set for due process hearing on January 18 and 19, 2023.

A non-expedited 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. As to the expedited matter, the request is DENIED. All dates for that matter, including the Prehearing Conference scheduled for January 9, 2023, are confirmed.

Prehearing Conference will be held on January 9, 2023, at 1:00 PM.

As to the non-expedited matter, the requested is GRANTED. The matter is set as follows:

Mediation: February 21, 2023, at 1:30 PM to 5:00 PM.

Prehearing Conference: March 6, 2023, at 3 PM.

Due Process Hearing: March 14, 15, and 16, 2023. The hearing shall begin at 9:30 AM on all 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.

Tiffany Gilmartin
Tiffany Gilmartin (Jan 6, 2023 09:49 PST)

Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings