BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

ANAHEIM ELEMENTARY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2020090678

ORDER FOLLOWING PREHEARING CONFERENCE

GRANTING REQUEST FOR CONTINUANCE

OCTOBER 12, 2020

On October 12, 2020, Administrative Law Judge Alexa Hohensee, Office of Administrative Hearings, held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC. Lauri Arrowsmith, Attorney at Law, appeared on behalf of Anaheim Elementary School District. Neither Parent, nor any other person, appeared on behalf of Student. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

Anaheim moved to continue the prehearing conference and due process hearing based on the previously scheduled hearing having been continued in response to Student's unilateral request to dates when Anaheim's counsel is unavailable.

The motion was timely filed three days prior to the prehearing conference.

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).)

The request for continuance is granted for good cause shown. All previously scheduled dates are vacated. The case will proceed as follows:

The PHC will be held on October 19, 2020 at 3:00 PM. The PHC will be held by videoconference or telephone.

PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

All other prehearing matters shall be addressed at the October 19, 2020 PHC. Prehearing conference statements and motions are due to OAH no later than three business days before the PHC, or October 14, 2020, or with a showing of good cause why it was not timely filed. The parties must file updated PHC statements prior to the PHC.

On the record, Anaheim's counsel stated that Parent told Anaheim that he might not attend the PHC and due process hearing because he had limited Wi-Fi and a limited data plan. Anaheim has offered to make a hotspot available at no cost to Parent for Parent to attend the PHC and all due process hearing days, but Parent has rejected the offer due to COVID-19 concerns. Parent is encouraged to arrange for Anaheim to drop-off the hotspot to Parent several days in advance of the PHC, so that Parent can temporarily isolate the hotspot and ally any contagion concerns in time to attend the October 19, 2020 PHC by videoconference. Parent may also attend the PHC by audio by calling the following telephone number and entering the phone conference ID number:

Telephone number for October 19, 2020 PHC: (916) 245-8550

Phone Conference ID: 276 752 761#

The due process hearing will be held on October 27, 2020 through October 29, 2020. The hearing will occur by videoconference or telephone. More information on joining the due process hearing will be discussed with the parties at the PHC on October 19, 2020. 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 ALJ.

The parties must immediately notify all potential witnesses of the hearing dates, and subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

The parties must immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing.

Dates for the PHC or due process hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The PHC and hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

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Alexa Hohensee
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Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings