BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022090021

ORDER ADVANCING PREHEARING CONFERENCE

DECEMBER 19, 2022

On December 16, 2022, parties jointly filed with the Office of Administrative Hearings, referred to as OAH, a request to continue the prehearing conference set for December 30, 2022 as counsel for San Diego is unavailable on that date. Parties requested the prehearing conference be continued to Tuesday, January 3, 2023. OAH does not conduct prehearing conferences on Tuesdays.

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. This matter has been pending since August 31, 2022. Parties did not request a continuance to the due process dates. There were no available dates to continue the prehearing conference to without triggering a continuance of the due process hearing. As a result, the prehearing conference will be advanced to December 23, 2022 at 1 p.m. Advancement of the prehearing conference will not change the timeline for parties to timely file prehearing motions.

Prehearing Conference will be held on December 23, 2022 at 1 p.m. Parties must file their prehearing conference statements no later than three business days prior to the prehearing conference.

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Dec 19, 2022 10:46 PST)

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings