BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

HIGH TECH LOS ANGELES CHARTER HIGH SCHOOL.

OAH CASE NUMBER 2023110186

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

DECEMBER 5, 2023

On November 30, 2023, Hight Tech Los Angeles Charter High School filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. On December 5, 2023, Student opposed the request.

High Tech contends the hearing should be continued because its counsel is unavailable on the currently scheduled hearing dates due to a preplanned vacation December 26, through December 29, 2023. High Tech's counsel is also unavailable on January 11, 2024, based on a scheduled mediation and is unavailable due to a preplanned and prepaid vacation January 15, through January 22, 2024. Additionally,

High Tech's representative is unavailable to attend the hearing based on a preplanned and prepaid vacation December 26, 2023, through January 4, 2024, and unavailable January 9, through 12, 2024, due to a work conference. High Tech's representative is also unavailable on January 16, 2024, based on a scheduled mediation. Student contends the hearing should not be continued because High Tech's argument is without merit and lacks good cause.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a

reasonable opportunity to prepare for trial regarding the new party's involvement;

- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or
- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

High Tech established good cause to continue the due process hearing. High Tech's counsel and representative's unavailability due to preplanned vacations and preplanned work conferences show good cause to continue the matter.

The request is granted. All previously scheduled dates are vacated. High Tech's request to schedule the hearing for February 6 and 7, is denied because ALJs are unavailable on those dates because they are attending training. The hearing has been scheduled for the next available date. The new dates are:

PREHEARING CONFERENCE will be held on January 26, 2024, at 3:00 PM.

DUE PROCESS HEARING will be held on February 8, 2024.

The prehearing conference and due process hearing will be held by videoconference or telephone, 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 good cause is established for the late filing.

The parties must immediately give potential witnesses 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.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings