BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

BERKELEY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2023100681

ORDER GRANTING REQUEST FOR CONTINUANCE OF NON-EXPEDITED HEARING AND SETTING PREHEARING CONFERENCE AND HEARING

DECEMBER 12, 2023

On October 20, 2023, Berkeley Unified School District filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Parents on behalf of Student who is conserved. The complaint alleged both expedited and non-expedited claims. The Decision on the expedited case was issued on November 30, 2023.

At the time of the prehearing conference for the expedited matter, the parties requested mediation of the non-expedited claims and a continuance. The request was granted on November 3, 2023.

On December 11, 2023, self-represented Parents filed a motion asking that the hearing date be continued a second time due to a family medical emergency. On December 12, 2023, Berkeley filed a notice that it did not oppose the motion.

OAH must conduct a due process hearing and render a decision within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

A family medical emergency constitutes good cause for the short continuance requested. The requested continuance is granted. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on January 19, 2024 at 10:00 AM.

DUE PROCESS HEARING will be held January 30, and 31, 2024 and February 1, 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

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings