BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT

OAH CASE NUMBER 2021030090

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

JUNE 2, 2021

On March 2, 2021, Student filed a due process hearing with the Office of Administrative Hearing request naming Long Beach Unified School District. The Office of Administrative Hearing is called OAH. Long Beach Unified School District is called Long Beach. On June 1, 2021, the parties jointly filed a request to continue the hearing set to start on June 15, 2021. An earlier filed case, case no. 2020120457, was also set to start on June 15, 2021 which Long Beach represented will proceed on June 15, 2021. A supporting declaration with supporting exhibits was filed along with the motion to continue. Through meet and confers, the parties jointly proposed August 19, 2021 for the prehearing conference, and August 24, through 26, 2021 for the hearing dates.

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. Because the complaint was filed recently, and the other case with a conflicting hearing date was filed in December 2020, OAH grants the jointly requested prehearing conference and hearing dates in this case. All dates are vacated. This matter will be set as follows:

PREHEARING CONFERENCE will be held on August 16, 2021, at time 10:00 AM. OAH does not schedule prehearing conferences the Friday before a hearing is to commence as insufficient time for parties to comply with the prehearing conference order.

DUE PROCESS HEARING will be held on August 24, 25, and 26, 2021.

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

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

Sabrina Kong

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings