BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

and

RIALTO UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2021020860

OAH CASE NUMBER 2021030148

ORDER GRANTING REQUEST FOR CONTINUANCE

MAY 11, 2021

On May 11, 2021, Administrative Law Judge June R. Lehrman, Office of Administrative Hearings opened the record for the first day of the due process hearing. The Administrative Law Judge will be referred to as an ALJ. Deborah Reisdorph, Attorney at Law, appeared on behalf of Student. Vivian Billups, Attorney at Law, appeared on behalf of Rialto Unified School District. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

Student filed a written motion to continue the due process hearing on May 10, 2021 based on counsel's representation of another student in another ongoing due

process hearing. Both parties argued the motion. Rialto opposed the motion on the grounds that it was not timely requested and would cause undue prejudice to Rialto. Rialto however agreed to specified dates for the continued hearing, if the motion were to be granted.

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. All previously scheduled dates are vacated. The case shall proceed as follows:

DUE PROCESS HEARING

The hearing will take place on June 2 and 3, 2021 and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. Additional hearing dates will be discussed with the ALJ during the hearing.

HEARING LOCATION

OAH is authorized to conduct due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) Based on state and federal guidance to address safety procedures due to the novel coronavirus, COVID-19, OAH will conduct the due process hearing by videoconference using the Microsoft Teams application. Unless otherwise ordered, participants are required to appear by videoconference using a webcam and Microsoft Teams.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena.

All other instructions previously stated in the May 3, 2021 Order Following Prehearing Conference for Hearing by Videoconference remain in effect.

IT IS SO ORDERED.

June Lehrman

June Lehrman

Administrative Law Judge

Office of Administrative Hearings