BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

DEL NORTE COUNTY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024110598

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

DECEMBER 2, 2024

On November 25, 2024, Del Norte County Unified School District, called Del Norte, filed a request to continue the prehearing conference and due process hearing with the Office of Administrative Hearings, called OAH. The prehearing conference, called PHC, in this matter was scheduled for 10:00 am on December 2, 2024, and a due process hearing scheduled for December 10, 2024, through December 12, 2024. Del Norte asserted its attorney was unavailable for a PHC on December 2, 2024, at 10:00 AM and a due process hearing on December 10, 2024, through December 12, 2024, due to a conflict with another matter before OAH, filed earlier than this current matter, with

conflicting dates for the PHC and due process hearing. To date, Parents on behalf of Student, called Student, have not submitted a written response to Del Norte's November 25, 2024, request for continuance. On December 2, 2024, Student's attorney called OAH prior to the scheduled PHC time to state that Student intended to file a written response by 5:00 PM that day.

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).)

Del Norte established good cause to continue the due process hearing. Del Norte's attorney is representing another local educational agency in OAH case number 2024080523, which was filed earlier than this matter, and had a PHC scheduled for 10:00 am on December 2, 2024, and a due process hearing scheduled for December 10, 2024, through December 12, 2024. Because OAH case number 2024080523 was filed earlier than this current matter, its scheduling takes precedence in the event of a conflict. Del Norte's attorney's unavailability for the PHC and due process hearing constitute good cause for a brief continuance in this matter.

Student's attorney may submit a written response to Del Norte's request for continuance by 5:00 PM. However, Del Norte has established good cause for a continuance due to the unavailability of its attorney, supported by its motion and attachments. The undersigned administrative law judge has confirmed that OAH's public calendar supports Del Norte's assertions that OAH case number 2024080523 has a prehearing conference and due process hearing dates conflicting with the dates in this matter. It does not promote judicial efficiency to expect Del Norte's attorney to appear in two separate PHCs at 10:00 am on December 2, 2024.

Del Norte's request for a brief continuance is granted. Del Norte asserted, supported by a sworn declaration, that Del Norte's representative was not available for a due process hearing between December 23, 2024, through January 8, 2025, due to a

prepaid family trip. However, Del's Norte's request to commence the due process hearing on Thursday, January 9, 2025, is denied because OAH generally schedules due process hearing to commence on Tuesdays. As such the due process hearing in this matter will be set for the first Tuesday following January 8, 2025. All previously scheduled dates are vacated.

PREHEARING CONFERENCE will be held on January 3, 2025, at 10:00 AM.

DUE PROCESS HEARING will be held on January 14, 2025, through

January 16, 2025.

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.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings