BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019080679

ORDER FOLLOWING PREHEARING CONFERENCE GRANTING REQUEST FOR CONTINUANCE

JANUARY 31, 2020

On January 31, 2020, Administrative Law Judge Kara Hatfield, Office of Administrative Hearings, held a telephonic prehearing conference. The Administrative Law Judge is called an ALJ; the Office of Administrative Hearings is called OAH; and a prehearing conference is called a PHC.

David German, Attorney at Law, appeared on behalf of Student. Summer Alessandro, Attorney at Law, appeared on behalf of Los Angeles Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

Los Angeles Unified moved to continue the prehearing conference and due process hearing based on its attorney's inability to adequately prepare for the due process hearing because she had been preoccupied with an expedited case with the same due process hearing dates. Although the expedited matter resolved at mediation on January 29, 2020, Los Angeles Unified's attorney was unprepared to proceed to hearing in this case. Based on Los Angeles Unified's motion to continue, filed on January 22, 2020, and consented to by Student, Student canceled his expert witness's travel plans for the currently scheduled due process hearing and rescheduled travel to the March 2020 dates mutually agreed upon by the parties. OAH cannot accommodate the parties' requested due process hearing dates and offered the parties the option to proceed as scheduled or continue the hearing to mutually available dates in April 2020. In consideration of Los Angeles Unified's spring break schedule, the parties jointly requested to continue the hearing to April 21, 22, and 23, 2020, and represented the attorneys and parties are available on those 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).)

The request for continuance is granted for good cause. All previously scheduled dates are vacated. Due to the age of this case, no further continuances will be granted absent extraordinary circumstances. The case shall proceed as follows:

Mediation: If the parties desire a mediation, they may submit to OAH a written request for mutually agreeable dates.

Prehearing Conference: April 10, 2020 at 10:00 AM

All other prehearing matters shall be addressed at the April 10, 2020 prehearing conference. All prehearing motions must be filed three business days before the PHC.

Due Process Hearing: April 21, 22, and 23, 2020

The hearing shall begin at 9:30 AM on the first day of the hearing and at 9:00 AM on all other days, unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

Hearing Location: Office of Administrative Hearings, 15350 Sherman Way, Suite 300, Van Nuys, California, 91406

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good

cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

If a full and final written settlement agreement is reached after 5:00 PM the day before the hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at https://www.applications.dgs.ca.gov/oah/oahsftweb.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.



Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings