BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Consolidated Matters of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>LOS ANGELES UNIFIED SCHOOL DISTRICT, | OAH Case No. 2018060459 |
| LOS ANGELES UNIFIED SCHOOL DISTRICT,<br><br>v.<br><br>PARENT ON BEHALF OF STUDENT. | OAH Case No. 2018100624<br><br>ORDER FOLLOWING PREHEARING CONFERENCE GRANTING REQUEST FOR CONTINUANCE OF PRE-HEARING CONFERENCE AND DUE PROCESS HEARING |

On January 14, 2019, a telephonic prehearing conference was held before Administrative Law Judge Deborah Myers-Cregar, Office of Administrative Hearings. Parent, appeared on behalf of Student. Diane M. Willis, Attorney at Law, appeared on behalf of Los Angeles Unified School District, for the PHC only. The PHC was recorded.

Based upon discussion with the parties, the ALJ issues the following order:

1. Request for Continuance of Hearing Dates, Times, and Location.

On January 9, 2019, Los Angeles filed a Request for Continuance of the Due Process Hearing. Los Angeles represented that its teachers were participating in a work stoppage for an undetermined period of time, and that its witnesses would be unavailable for the due process hearing.

At the PHC, Los Angeles confirmed the work stoppage began on January 14, 2019, and would last for an undetermined amount of time. The essential witnesses to the hearing are unavailable.

At the PHC, Parent opposed the request for a continuance, even though she would be relying upon the same witnesses who would be unavailable due to the work stoppage. Parent requested accommodations for the hearing. She had insomnia and requested a 1:00 p.m. starting time on all days of hearing. Parent also stated she could not write or take notes and requested to be able to electronically record the hearing.

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. (See 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; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The Los Angeles teacher's work stoppage makes the essential witnesses unavailable for hearing for both parties, and constitutes good cause for continuance of the hearing. The request is granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference: January 25, 2019, at 10:00 AM

Due Process Hearing: February 5, 6, 7, 2019 at 10:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The Due Process Hearing shall take place at the Office of Administrative Hearings located at 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, as applicable.

2. Special Needs and Accommodations. Parent's request for accommodation by starting each day of hearing at 1:00 p.m. is denied, as it will interfere with the ALJ's ability to conduct the hearing in a timely and efficient manner. However, as an accommodation to Parent's disability, the hearing shall start at 10:00 a.m.. Additional information concerning requests for reasonable accommodation if Parent has documentation to support such a request is available on OAH's website at https://www.dgs.ca.gov/oah/Home/Accessibility.aspx.

Parent's request for accommodation by electronically recording the hearing is granted, subject to the following conditions: 1) that OAH's recording is the only official

recording of the hearing; 2) that the recording will be turned on and off at the same time as the ALJ's recording, in order to avoid recording conversations while off the record; and 3) that operation of the party's recording mechanism will not be allowed to delay the hearing.

3. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached 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 P.M. THE DAY PRIOR TO 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. THE PARTIES SHOULD SIMULTANEOUSLY EMAIL THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT https://www.applications.dgsapps.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 the evening prior to the hearing or the morning of the hearing.

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

IT IS SO ORDERED.

DATE: January 15, 2019

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Deborah Myers-Cregar
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DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings