BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

LOS ANGELES UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2023070149

ORDER DENYING REQUEST FOR CONTINUANCE

JULY 27, 2023

On July 25, 2023, Los Angeles Unified School District, called Los Angeles, filed a request to continue the due process hearing with the Office of Administrative Hearings, called OAH. Student did not file a response. The hearing in this matter is scheduled to begin on August 1, 2023.

Los Angeles contends the hearing should be continued because it is currently on summer break and witnesses are unavailable. Los Angeles also wants more time to contact Parents to ensure Parents' participation in the hearing or informal resolution.

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).)

The declaration of Los Angeles' attorney establishes Parents have not responded to Los Angeles' attempts to communicate and did not appear at the prehearing conference on July 24, 2023. It also establishes that Los Angeles is on summer break.

The declaration of Los Angeles' attorney does not state that the attorney has attempted to reach prospective witnesses to determine if they are available to testify. The fact that Los Angeles is on summer break does not establish that essential witnesses are unavailable.

In addition, Parents are not required to participate in informal resolution in a district-filed case. Parents are not required to appear at hearing. Los Angeles has not demonstrated that Parents want to informally resolve this matter, or that a continuance to do so is warranted. If Los Angeles and Parents do agree to mediate this dispute, the parties may file a joint request for mediation and continuance at that time.

Los Angeles has not established good cause for a continuance, and the request is denied. This Order does not preclude Los Angeles from requesting a continuance with the necessary showing of good cause.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings