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 GRANTING REQUEST FOR CONTINUANCE

AUGUST 1, 2023

On August 1, 2023, on the first day scheduled for the due process hearing in this matter, Los Angeles Unified School District, called Los Angeles, renewed its request to continue the hearing. Several essential witnesses were unavailable to testify, and Los Angeles wanted another opportunity to meet and confer with Parents. The hearing was delayed for 20 minutes, and Office of Administrative Hearings, or OAH, staff attempted to reach Parents by telephone, but Parents did not appear and the request was unopposed.

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).)

Los Angeles established good cause to continue the due process hearing. Essential expert witnesses were unavailable on the hearing dates assigned by OAH in the scheduling order. Los Angeles seeks in this due process hearing to defend four

assessments of Student. One assessor is out of the country with a poor internet connection, and one has limited availability during hearing hours. Los Angeles has been unable to reach two of the assessors. Each of the assessors will return to work for Los Angeles on August 14, 2023, and will be available to testify.

The request is granted. The due process hearing is continued to August 16, 2023, beginning at 9:30 AM. The 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.

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.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings