BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

LEMOORE UNION ELEMENTARY SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022080193

ORDER DENYING STUDENT'S FOURTH REQUEST FOR CONTINUANCE

MARCH 2, 2023

On August 5, 2022, Lemoore Union Elementary School District filed a request for due process hearing filed with the Office of Administrative Hearings, referred to as OAH, naming Student as respondent. On March 2, 2023, Student, through Parent, filed her fourth request to continue this matter, to secure counsel. As of the date of this order, no opposition had been received from Lemoore. However, the last two requests seeking continuances to secure counsel have been granted over Lemoore's objections. The hearing is scheduled to begin March 7, 2023.

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. (34 C.F.R. §

300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Student's March 2, 2023 continuance request includes no statement from an attorney that an attorney has agreed to take Student's case. Parent's continuance request states only that she contacted Disability Rights California which "indicated their availability to help" if the case was continued to April 25, 26, and 27, 2023. No notice of representation has been filed by Disability Rights and Disability Rights did not submit the request for continuance.

The third order granting a continuance to secure counsel, dated December 5, 2022, informed Parent that no further continuances would be granted for the purposes of allowing her to find an attorney. Student has been granted more than six months of combined continuances to secure counsel in this matter.

Lemoore is required to file a request for due process to prove their offer constituted a free, appropriate, public education. (Ed. Code § 56346, subd. (f); *I.R. v. Los Angeles Unified School District* (9th Cir. 2015) 805 F. 3d 1164, 1168.) Lemoore has waited nearly an entire school year to have its case heard. During this time, Student's educational program has been unresolved. Student's fourth request for continuance is Denied. All prehearing conference and hearing dates are

confirmed. The case will proceed on March 7, 2023 at 9:30 AM via videoconference as previously ordered.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings