BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024010524

ORDER GRANTING REQUEST FOR CONTINUANCE OF THE HEARING

SEPTEMBER 25, 2024

Administrative Law Judge Laurie Gorsline, called the ALJ, heard this matter by videoconference on September 17, 18, 20, and 24, 2024. Parent represented Student. Student did not attend the hearing. Attorney Brian Davenport represented Los Angeles Unified. Patrick Johnson, an administrator for Los Angeles Unified attended hearing days on Los Angeles Unified's behalf.

On September 17, 18, 20 and 24, 2024, the parties and ALJ conducted preliminary matters pertinent to the hearing as reflected on the record. Opening statements had not yet been made. The history of this case is summarized in the Amended, Corrected

and Supplemental Order Denying Challenge for Cause and Denying Motion Regarding Revision of Issues, dated September 24, 2024.

On September 24, 2024, the fourth day of the due process hearing, the ALJ attempted to proceed with opening statements and Parent's testimony. Parent stated she was not prepared to move forward, claimed she was ill and had a migraine, and asked for a continuance. The ALJ recessed the hearing at approximately 11:15 AM and granted a continuance to September 25, 2024, at 9:30 AM.

On the morning of September 25, 2024, Parent filed a doctor's note with OAH.

The hearing resumed on September 25, 2024, at approximately 9:40 AM. Attorney Davenport and administrator Johnson appeared on behalf of Los Angeles Unified. No one appeared on Student's behalf.

The ALJ informed District that Parent had filed a doctor's note and that the ALJ was construing what was stated in the note as a request to continue the hearing. District opposed the continuance and requested that the matter be dismissed for failure to prosecute the case. District argued that if the matter was continued, District needed a continuance to November 5, 2024, because of conflicts in District's counsel schedule, including two other trials and a vacation during the month of October 2024, as further detailed on the record.

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).)

Based on what is stated in the note filed by Parent with OAH, there is good cause to continue the hearing. Based on the District attorney's representations regarding his impacted schedule and taking into account all of the other circumstances, good cause has been established to continue the due process hearing to November 5, 2024, at

9:30 AM. District's oral requests to dismiss the case made on September 20, 24 and 25, 2024, are denied without prejudice. The request for continuance is granted to November 5, 2024 at 9:30 AM, as follows:

DUE PROCESS HEARING DAY SIX will be held on November 5, 2024.

DUE PROCESS HEARING DAY SEVEN will be held on November 6, 2024.

DUE PROCESS HEARING DAY EIGHT will be held on November 7, 2024.

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 ALJ.

IF PARENT DOES NOT APPEAR ON NOVEMBER 5, 2024, AT 9:30 AM, STUDENT'S CASE WILL BE DISMISSED.

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.

The ALJ previously made orders requiring the parties to meet and confer regarding the joint witness schedule and exhibits, as reflected on the record. The parties

are ordered to meet and confer regarding those matters prior November 5, 2024, and be prepared to demonstrate diligence in complying with the ALJ's orders.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings