BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023100526

ORDER GRANTING REQUEST FOR CONTINUANCE

FEBRUARY 15, 2024

On October 16, 2023, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District. On November 20, 2023, the parties requested a continuance to mediate this matter. On November 21, 2023, OAH granted a February 28, 2024, mediation date and set the hearing to begin on April 9, 2024.

On December 15, 2023, OAH granted Student's motion to amend the complaint which reset the due process hearing to begin on January 30, 2024. On January 16, 2024, the parties jointly requested a second continuance to mediate the amended complaint. On January 18, 2024, OAH granted a January 31, 2024, mediation date and set the hearing to begin on February 27, 2024.

On February 12, 2024, Student filed a third request to continue the due process hearing because the parties have settled the matter pending Student's acceptance in a residential treatment center. On February 13, 2024, Los Angeles Unified School District filed a non-opposition.

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).)

Student established good cause for a third continuance in this matter. Student requested a 30-day continuance to allow sufficient time for Los Angeles Unified to contract with a residential treatment center and finalize Student's placement. The request is granted but modified. Los Angeles Unified did not oppose the continuance, but requested the due process hearing commence on April 9, 2024, instead of March 26, 2024, to accommodate Los Angeles Unified's spring break. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on March 29, 2024, at 1:00 PM.

DUE PROCESS HEARING will be held on April 9, through April 11, 2024.

The prehearing conference and 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. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference. Late motions will only be considered if good cause is established for the late filing.

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.

Linda Dowd

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings