

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 2023120347

ORDER DENYING STUDENT'S SECOND REQUEST FOR
CONTINUANCE OF DUE PROCESS HEARING

APRIL 12, 2024

On December 8, 2023, Parents on behalf of Student filed a request for due process hearing with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District, called Los Angeles. On January 9, 2024, OAH issued an order granting the parties' joint request to schedule a mediation and continue the hearing dates. The mediation was scheduled for March 7, 2024, and the due process hearing was continued to April 30 through May 2, 2024.

On March 5, 2024, Student filed a notice of cancelled mediation. On April 10, 2024, Student filed a second request for continuance. On April 11, 2024, Los Angeles filed a statement of non-opposition to Student's continuance request.

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).)

OAH considers an initial request for a mediation on a date beyond the scheduled hearing to be good cause to continue the hearing. Therefore, on January 9, 2024, OAH granted the parties' joint request for mediation and continuance of the due process hearing.

Student's due process complaint alleges Los Angeles denied Student a FAPE during the 2021-2022, 2022-2023, and 2023-2024 school years. Student seeks compensatory education, reimbursement of private school tuition, and prospective private school placement. Student contends he cancelled the originally scheduled March 7, 2024 mediation because Los Angeles agreed to an independent educational evaluation for Student. Student asserts the evaluation is in the process of being conducted by an independent evaluator but will not be completed prior to the April 30, 2024, due process hearing. Student requests a continuance to allow him to introduce the independent assessment report at hearing.

Student has not demonstrated good cause for a second continuance request. Student's request was not supported by a declaration under penalty of perjury. Further, Student fails to explain why he waited almost five weeks after cancelling the March 7, 2024, mediation to request a continuance. Student also did not demonstrate the results of an independent educational evaluation are material to his claims Los Angeles denied

him a free appropriate public education over the past three school years. Student's request for a second continuance of the hearing is denied without prejudice because of an insufficient showing of good cause. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings