BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

LOS ANGELES UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2022010333

OAH CASE NUMBER 2022060344

ORDER GRANTING REQUEST FOR CONTINUANCE

JULY 14, 2022

On July 13, 2022, Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon Student's counsel's COVID illness, as well as the COVID illness of Student's expert witness. On July 13, 2022, Los Angeles Unified School District opposed the request based upon the age of this case and the number of continuances already granted, and Los Angeles's assertion that another attorney within Student's counsel's office should handle the matter. On July 13, 2022, Student filed a reply to Los Angeles's opposition, reiterating its continuance request.

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 for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

In reviewing the request, the undersigned considered the number of continuances already granted in this case against the modest length of continuance Student currently requests. Student established good cause for continuance based on the illness of Student's attorney of record, and the attorney's resulting inability to prepare for or appear at hearing. Student also established good cause for continuance based on the COVID illness and unavailability of Student's expert witness. Student's continuance request was not based on Parent's vacation plans; rather, the Declaration of Carolina Watts, attached to Student's reply, established that Parent is willing to proceed

to hearing on the new dates requested. Student's continuance request is granted over Los Angeles' objection. This matter will be set as follows:

Due Process Hearing will be held on August 2, 3, and 4, 2022. The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness.

IT IS SO ORDERED.

Claire Yazigi

Claire Yazigi
Administrative Law Judge
Office of Administrative Hearings