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 2023090342

ORDER GRANTING JOINT REQUEST FOR CONTINUANCE

DECEMBER 1, 2023

On December 1, 2023, the parties filed a joint request to continue the due process hearing with the Office of Administrative Hearings, OAH. The due process hearing is currently scheduled to begin on December 12, 2023.

The parties contend the hearing should be continued because the attorney for Los Angeles Unified School District, called Los Angeles, will not be available. Los Angeles's attorney was informed on November 27, 2023, at a prehearing conference in another matter that that hearing would likely continue into the week of December 11, 2023. The other matter was filed prior to Student's request for due process and is entitled to priority for hearing.

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).)

The parties established good cause to continue the due process hearing. Los Angeles's attorney is unavailable due to excusable circumstances. Los Angeles's attorney was informed on November 27, 2023 that an earlier-filed case is anticipated to make her unavailable in this matter. Student has agreed to the continuance. Student's claims arose in 2021, Student seeks remedies for Los Angeles's conduct in 2021, and Student is currently attending an educational program, so there is no prejudice to Student in granting a continuance requested by both parties. The continuance requested is short, to January 23, 2024.

The request is granted. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on January 12, 2024, at 10:00 AM. Please note that the requested date, January 15, 2023, is a State holiday and unavailable.

DUE PROCESS HEARING will be held on January 23 through 25, 2024.

The mediation, 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.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings