BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

ANAHEIM ELEMENTARY SCHOOL DISTRICT,

OAH CASE NUMBER 2021120868

OAH CASE NUMBER 2021100500

ORDER GRANTING ONE DAY CONTINUANCE

MAY 6, 2022

This matter is now calendared for hearing on May 10, 11 and 12, 2022. On May 4, 2022, Student moved to continue or trail the hearing on the ground that his attorney, Timothy Adams, is also lead counsel in a different and ongoing due process matter, *Student v. Chino Valley Unified Sch. Dist.,* OAH Case No. 2021120672, which is proceeding today and is calendared to continue on May 9, 2022. Student asserts that "based on the witness schedule" in the *Chino* case it is "anticipated" to continue on May 10 and 11, 2022, thereby posing a conflict in Mr. Adams's schedule. On May 5, 2022, Anaheim filed an opposition to the motion.

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).)

Anaheim is correct in its observation that Student's motion was untimely filed, for several of the reasons Anaheim sets forth. However, it now appears that if the *Chino Valley* case is not completed on May 9, 2022, it will be completed on May 10, 2022. For OAH operational needs and to reconcile the calendaring of these cases, OAH will therefore grant a one-day continuance of the due process hearing in these consolidated matters.

The due process hearing scheduled to begin on May 10, 2022, is continued to May 11, 2022, at 9:30 a.m. All other orders remain in effect.

IT IS SO ORDERED.

Charles Marson

Charles Marson

Administrative Law Judge

Office of Administrative Hearings