BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024060974

ORDER DENYING REQUEST FOR VIDEOCONFERENCE MEDIATION AND CONTINUANCE OF DUE PROCESS HEARING

OCTOBER 31, 2024

On June 26, 2024, Student filed a request for due process hearing with the Office of Administrative hearings, also called OAH, naming Grossmont Union High School District. On July 31, 2024, OAH issued an order granting the parties' joint request for a mediation and continuance, setting the mediation for August 27, 2024, prehearing conference, also called PHC, for September 27, 2024, and due process hearing for October 8, 9, and 10, 2024.

On August 27, 2024, the parties participated in mediation. On September 27, 2024, the parties participated in the PHC.

On October 1, 2024, Student filed a motion to continue the due process hearing for approximately 30-days due to a conflict with OAH case number 2024030862.

On October 2, 2024, OAH denied Student's motion as Student failed to meet and confer with opposing counsel for mutually agreeable dates for a continuance. On October 4, 2024, Student filed another motion to continue after meeting and conferring with Grossmont Union and obtaining mutually agreeable dates for the continuance.

On October 7, 2024, OAH granted Student's subsequent motion to continue the hearing to November 5 through 7, 2024.

On October 31, 2024, Student requested a 30-day continuance due to a conflict with OAH case number 2024070499, an ongoing case proceeding on November 5, 6, 7, and 12, 2024. Adams again failed to meet and confer with Grossmont Union to obtain mutually agreeable hearing dates.

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).)

Adams' declaration demonstrated a conflict with another ongoing hearing. However, his declaration did not demonstrate the need for another 30-day continuance and did not provide OAH with dates for the continuance. Moreover, Student failed to comply with OAH requirements that parties meet and confer regarding mutually agreeable dates for a requested continuance. Failure to comply with OAH procedures creates additional work for an already impacted OAH staff and increases OAH operational costs, which in turn impacts the California Department of Education.

The request is denied. All previously scheduled dates remain as scheduled. Nothing in this order prevents the parties from submitting a request for continuance with agreed upon dates beginning November 13, 2024, or as soon thereafter as the parties are available. Such request must include declarations stating dates of unavailability, if any, arising on or after November 13, 2024, through the first date of availability for hearing.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings