BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020020062

ORDER DENYING REQUEST FOR CONTINUANCE

APRIL 30, 2020

Student filed his due process hearing request in this matter on February 3, 2020. On April 3, 2020, to address concerns arising from the COVID-19 pandemic, OAH continued the hearing of this matter for May 19 through 21, 2020.

On April 29, 2020, Bellflower filed a request to continue this matter, on grounds that Bellflower and its counsel were required to appear on May 19 through 21, 2020, in another hearing, set on March 16, 2020, in previously-filed Case No. 2019110836. Bellflower requested this matter be continued for hearing during the week of August 17 through 21, 2020. Bellflower requested the continuance to a time after the start of the 2020-2021 school year on grounds that Bellflower and its counsel were expected to be in hearing before other matters on May12 through 14, 2020 and May 19 through 21, 2020, and Bellflower's counsel was scheduled to be in hearing before the Public

Employment Relations Board on June 1, 2020 through June 12, 2020. Additionally, Bellflower represented it would be unable to produce its instructional staff as witnesses for hearing during the summer school closure period.

Student opposed Bellflower's request for continuance on grounds Bellflower did not show good cause for a continuance, and Student would be prejudiced by delay in the hearing of this matter.

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. Bellflower has demonstrated good cause for a continuance to avoid a direct conflict in hearing dates between this case and a previously-filed case on May 19 through 21, 2020. However, Bellflower has not shown a direct conflict with hearing dates in other pending matters, or other good cause, supporting a continuance to August, 2020. The Education Code does not extend the time for holding due process hearings based on school vacations or closures, or a party or counsel having a generally busy schedule.

In light of the above circumstances, Bellflower's continuance request is:

Denied. The parties may submit a joint request for a continuance of the prehearing conference and hearing with suggested dates. This order is without prejudice to Bellflower filing a request for a short continuance to avoid an actual direct conflict with a previously filed OAH case.

IT IS SO ORDERED.

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Robert G. Martin

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Administrative Law Judge

Office of Administrative Hearings