BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022110728

ORDER GRANTING MOTION TO DISMISS

JANUARY 12, 2023

On November 28, 2022, Sacramento City Unified School District filed a request for due process hearing with the Office of Administrative Hearings, naming Parent on behalf of Student. The request for due process hearing is referred to as a complaint. The Office of Administrative Hearings is referred to as OAH. The complaint included both expedited and non-expedited claims.

The expedited due process hearing was held on December 13, 14, and 15, 2022, and the undersigned rendered a decision regarding the expedited issues on January 5, 2023. The non-expedited hearing was held on January 10 and 11, 2023.

At the beginning of the due process hearing on January 11, 2023, the parties requested to meet off the record for approximately 30 minutes to discuss resolution.

Neither witnesses nor evidence had been presented at that time, and the parties had not yet given opening statements.

Upon their return, Sacramento City Unified School District's counsel represented that Parent had signed paperwork to exit Student from special education; however, it allowed Parent to revoke this request within 10 days. Thus, Sacramento City Unified School District requested a continuance until January 21, 2023, pending the expiration to revoke Parent's request. Parent agreed to the continuance.

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).)

The undersigned reviewed the request for good cause and considered all relevant facts and circumstances. The request is denied. This is the third continuance request in this matter. The parties did not represent that this was a settlement of the case. Thus, Sacramento City Unified School District failed to establish good cause for a continuance, and the request was denied.

Sacramento City Unified School District then requested a dismissal of this matter without prejudice. Student did not object to this request. Sacramento City Unified School District's request to dismiss was granted. OAH Case Number 2022110228 is dismissed and all remaining hearing dates are vacated.

IT IS SO ORDERED

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings