BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021050118

ORDER DENYING REQUEST FOR CONTINUANCE

JUNE 17, 2021

On June 15, 2021, San Diego filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon perceived conflicts between the upcoming hearing and other matters involving San Diego's counsel and representative.

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. The request is:

Denied without prejudice. At present there is no conflict between Case No. 2021010659 and this matter because June 23, 2021, is the last day of hearing now scheduled in No. 2021010659, and the hearing in this matter does not begin until June 29, 2021. There is also no present conflict identified in the schedule of the District's representative. Counsel alleges she is also involved in three earlier-filed due process matters, but does not claim there is now any conflict between the hearings in those matters and the hearing in this one. The hearings now scheduled in July 2021 in which counsel is also involved do not conflict with this matter, and in any event this matter would have preference on the calendar if it goes forward. Should the calendaring of any of these matters change in a way that poses an actual conflict with the hearing in this

matter, San Diego may renew its motion. The presently set prehearing conference and due process hearing dates are confirmed and shall proceed as calendared. The continuance request is denied without prejudice.

IT IS SO ORDERED.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings