

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

V.

FOLSOM-CORDOVA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021020048

ORDER DENYING MOTION FOR THIRD CONTINUANCE OF
HEARING

SEPTEMBER 28, 2021

On February 1, 2021, Parents on behalf of Student filed with the Office of Administrative Hearings, referred to as OAH, a request for due process hearing, called a complaint, naming Folsom-Cordova Unified School District as respondent. On March 10, 2021, OAH granted the parties' joint request and set mediation for March 29, 2021, and continued the hearing to May 5 and 6, 2021. Student subsequently canceled the mediation.

On April 15, 2021, the parties filed a joint request to continue the hearing for six months, to October 12 through 14, 2021, because the parties had entered into an interim agreement that provided for multiple independent assessments of Student. The

parties stated the continuance would allow for the assessments' completion. OAH granted the continuance request on April 16, 2021, but cautioned the parties "that this case will have been pending for nearly eight months by the time it proceeds to hearing. Accordingly, no further continuances will be granted, to complete assessments or otherwise, absent extraordinary good cause."

On September 28, 2021, the parties filed a joint request for mediation and continuance of hearing because the independent assessments have not been completed. The parties ask that mediation be set on December 13, 2021, and that the hearing be continued to January 18 through 20, 2022.

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. OAH's April 2021 Order put the parties on notice that there would be no further continuances, even if the assessments had not been completed. A hearing continuance to January 18, 2022, will effectively result in a decision being issued more than a year after the complaint's filing. Such delay is inconstant with Federal and state special education law, providing for efficient and expeditious resolution of due process hearing requests.

The parties have not demonstrated good cause for further continuance of the hearing. The motion is denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley", written over the typed name.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings