

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SANTA ROSA CITY SCHOOLS.
OAH CASE NUMBER 2021060720

ORDER DENYING REQUESTS FOR CONTINUANCE AND
MEDIATION

SEPTEMBER 10, 2021

On June 18, 2021, Student filed a due process complaint with the Office of Administrative Hearings, called OAH, naming Santa Rosa City Schools, as respondent. On July 6, 2021, OAH granted the parties' joint request to continue the due process hearing and schedule a mediation. At the parties' request the mediation was scheduled on August 23, 2021, and the due process hearing was continued to September 8 and 9, 2021. On August 18, 2021, Student filed a motion to amend the complaint. On August 20, 2021, Student canceled the mediation. Student's motion to amend the complaint was granted on August 25, 2021 and the due process hearing was scheduled for October 19, 20, and 21, 2021.

On September 8, 2021, the parties filed with OAH a joint request for mediation and to continue the due process hearing in this matter. The parties submitted the request on the form designated for initial mediation and continuance requests. However, a prior request for mediation and continuance was granted in this case. The previously scheduled mediation was cancelled without an explanation one business day before the scheduled mediation.

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. As noted, the parties submitted the instant request on the initial mediation and hearing continuance form. The request is not denied simply because the parties submitted the request on an incorrect form. Good cause for an initial continuance is established based on the parties' joint desire to mediate. Any subsequent requests, for both an additional mediation date and continuance, must establish good cause. Here the parties provided no good cause for either request.

All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The continuance request is denied.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings