

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

WILLIAM S. HART UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021040086

ORDER DENYING REQUEST FOR CONTINUANCE OF

HEARING

OCTOBER 08, 2021

On October 8, 2021, the parties filed with the Office of Administrative Hearings, called OAH, a joint request to continue the hearing in this matter, based upon the ground that an appeal of a decision in another OAH case between the same parties is pending before the Ninth Circuit Court of Appeals, and the parties hope to reach a global settlement of all disputes between them at a mediation the parties hope to schedule in that court. The parties also argue a jurisdictional issue exists in the present case because Student is over 18 years old and is not conserved.

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. This matter has already been continued twice. The present hearing dates were chosen by the parties. The pending appeal of a Decision in another OAH case involving the same parties does not constitute good cause for a continuance of the hearing in this case. A possible mediation in the Federal Court of Appeals in that appeal also does not constitute good cause for a continuance of the hearing in this case. Furthermore, Student turned 18 years old before this case was filed, and is represented by counsel in this matter. Therefore, no jurisdictional issue has arisen, and the fact that

Student is not conserved also does not constitute good cause for the requested continuance.

All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The parties' request is denied because the parties failed to demonstrate good cause to justify the requested continuance.

IT IS SO ORDERED.

Christine Arden

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Administrative Law Judge

Office of Administrative Hearings