

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENTS ON BEHALF OF STUDENT,

v.

RIVER SPRINGS CHARTER SCHOOL .

OAH CASE NUMBER 2021050302

OAH CASE NUMBER 2021060381

ORDER DENYING REQUEST FOR VIDEOCONFERENCE

MEDIATION AND CONTINUANCE OF DUE PROCESS

HEARING

OCTOBER 27, 2021

On May 10, 2021, Student filed with the Office of Administrative Hearings, known as OAH, a request for due process hearing in OAH case number 2021050302, naming River Springs Charter School. On June 15, 2021, OAH granted the parties' joint request for mediation on August 5, 2021, and a continuance of the due process hearing to October 5 through 7, 2021.

On June 10, 2021, River Springs filed a request for due process hearing in OAH case number 2021060381, naming Parent on behalf of Student.

On June 16, 2021, River Springs filed a motion to consolidate the cases and to maintain the dates in Student's case for the mediation, prehearing conference, and due process hearing for both cases. OAH granted River Springs' motion to consolidate.

On August 3, 2021, River Springs Charter School cancelled the mediation without explanation.

On September 20, 2021, Student filed a request for leave to amend his complaint and an amended complaint which was granted on September 23, 2021, with a due process hearing set to begin November 16, 2022.

On October 26, 2022, the parties requested a November 17, 2021 mediation date and continuation of the due process hearing to January 25, 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).)

The undersigned reviewed the parties' request for a mediation and due process hearing continuance and considered all relevant facts and circumstances. OAH strongly encourages dispute resolution before a due process hearing. One mediation is scheduled for the parties at public expense. Here, River Springs Charter School cancelled mediation with little notice and after a mediator was assigned. Further, the parties failed to provide an explanation for the cancellation in their request. Thus, the parties did not establish good cause for setting a new mediation date after it was set on the date requested by the parties. Additionally, the parties failed to establish good cause to continue the due process hearing. Good cause would have to be provided for both, particularly in considering the requested hearing dates are over eight months after the original complaint was filed. Accordingly, the parties' request is denied.

The parties may resubmit the request with an explanation supported by a declaration under penalty of perjury as to why OAH should grant a new request for a mediation date and a continuance in this matter.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings