

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021050387

ORDER DENYING REQUEST FOR CONTINUANCE

OCTOBER 18, 2021

On May 12, 2021, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Grossmont Union High School District. On June 22, 2021, OAH granted the parties' joint request to continue the due process hearing and set the hearing to begin on September 28, 2021. On September 15, 2021, OAH granted Student's motion to amend the complaint, which reset the hearing timelines in the case, and set the due process hearing to begin on November 9, 2021. On October 12, 2021, Student filed a request to continue the hearing on the grounds that Student's attorney has two trials set on the same dates as the hearing in this case. Grossmont did not respond to Student's continuance request.

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 case has been pending for five months and OAH has a duty to hold a due process hearing to resolve the issues in the case within a reasonable time period. Student did not show good cause for a two-month continuance. Student did not provide any details regarding its attorney's alleged conflicts, such as case numbers or why a different attorney in the office cannot cover the conflicting trials. Further, Student did not include a declaration attesting to its

attorney's unavailability for the hearing in this case. Therefore, there is not good cause to continue the due process hearing. All dates will remain as scheduled.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings