

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT

v.

BURBANK UNIFIED SCHOOL DISTRICT.
OAH CASE NUMBER 2021090361

ORDER DENYING STUDENT'S MOTION FOR
CONTINUANCE OF DUE PROCESS HEARING

OCTOBER 27, 2021

On September 13, 2021, Parent on behalf of Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, referred to as OAH, naming Burbank Unified School District as the respondent. OAH scheduled the prehearing conference for, November 1, 2021, and the hearing for November 9 and 10, 2021. This matter has not been set for mediation and has not been previously continued.

On October 25, 2021, Student filed a motion to continue the hearing to January 11, 2022, because Student's attorney has calendaring conflicts with two other due process matters. On October 26, 2021, Burbank Unified opposed the request because Student has not demonstrated good cause for a two-month continuance.

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).)

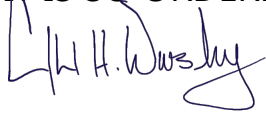
Here, Student's attorney represents that this matter's prehearing conference conflicts with a prehearing conference set by OAH in a previously filed due process matter. Counsel also states this matter's due process hearing is scheduled on the same dates as the hearing in another previously filed due process matter.

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is denied. Student did not provide any reason for continuing the hearing for more than two months. Additionally, Student's counsel

signed joint requests for mediation and continuances in the two other due process matters with which counsel has a calendaring conflict, on the same day that this motion to continue was filed. Those two joint requests for mediation and continuance are in the process of being granted and, therefore, Student's attorney does not have a calendaring conflict.

Student's motion to continue 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