

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CENTRAL SCHOOL DISTRICT.
OAH CASE NUMBER 2021070303

ORDER DENYING REQUEST FOR CONTINUANCE

NOVEMBER 10, 2021

On July 9, 2021, Student filed a request for a due process hearing with the Office of Administrative Hearings, called OAH, naming Central School District as respondent. On September 23, 2021, OAH granted Student's first motion to amend the complaint. On November 4, 2021, OAH granted Student's second motion to amend the due process complaint. On November 4, 2021, OAH issued a scheduling order resetting the dates for the prehearing conference and hearing. The due process hearing is currently scheduled for December 28, 29, and 30, 2021.

On November 9, 2021, the parties filed a joint stipulation and a request to continue this matter for two reasons: conflicting hearing dates of Student's sibling's case which involves common witnesses and parties; and the alleged unavailability of

Central's witnesses resulting from Central being closed for winter break on the currently scheduled dates for hearing.

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. Central's closure due to winter break is not good cause for a continuance. No declaration was provided establishing the unavailability of a specific witness due to Central's school closures for winter break. This matter was filed prior to the conflicting matter and shall proceed to hearing first on the currently scheduled

dates. Accordingly, the request for continuance is denied for lack of good cause. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Rita Defilippis

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings