

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,
ROSEMONT HIGH SCHOOL.

OAH CASE NUMBER 2021100144

ORDER DENYING RESPONDENTS' REQUEST
FOR CONTINUANCE OF DUE PROCESS HEARING
WITHOUT PREJUDICE

NOVEMBER 10, 2021

On October 4, 2021, Parent on behalf of Student filed a due process hearing request with the Office of Administrative Hearings naming Sacramento City Unified High School District and Rosemont High School, referred to as respondents. The Office of Administrative Hearings is referred to as OAH.

On November 9, 2021, respondents filed a Motion to Continue Due Process Hearing on the basis they require additional time to attempt to resolve this dispute

through a resolution session or mediation and further that Student will not be harmed by a continuance since the complaint concerns prior requests for assessment which allegedly have been completed or are in progress. OAH did not receive a response from Parent.

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).)

Respondents' motion is supported by a sworn declaration by Sacramento City Unified School District's Special Education Local Plan Area Director. Respondents acknowledge that Parent and his advocate participated in a resolution session on

October 20, 2021, but contend that the resolution session was non-productive.

Respondents further assert that Parent has failed to respond to Respondents' settlement offer or request to participate in mediation.

Respondents' motion fails to establish good cause for continuance of the due process hearing. Respondents have not demonstrated Parent is willing to participate in mediation or settlement discussions, or any other factors supporting good cause for a continuance. Accordingly, Respondents' motion to continue is denied. This denial is without prejudice to the parties' right to seek a continuance of the due process hearing in the event Parent is willing to participate in mediation.

IT IS SO ORDERED

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings