

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100479

ORDER DENYING REQUEST FOR CONTINUANCE

DECEMBER 17, 2021

On October 18, 2021, Student filed with the Office of Administrative Hearings, referred to as OAH, a request for due process. On December 2, 2021, OAH granted the parties' joint request for a mediation and continuance of the hearing, and set the mediation for January 12, 2022, the prehearing conference, called the PHC, for February 4, 2022, and the hearing for February 23, 2022, through February 24, 2022. On December 7, 2022, OAH granted Student's motion for leave to file an amended complaint. On December 7, 2021, OAH issued a scheduling order setting the PHC for January 24, 2022, and the due process hearing for February 1, 2022, through February 3, 2022.

Counsel for Long Beach Unified School District contends she is not available to appear at the hearing in this matter on the current hearing dates because she is

scheduled to be in hearing from February 1, 2022, through February 3, 2022, in three other cases, in addition to this case. Two of those three cases were filed after the present case was filed. The parties now request a continuance of the PHC to February 25, 2022, at 1:00 pm, and a continuance of the hearing to March 8, 2022, through March 10, 2022, on the ground that Long Beach Unified School District's counsel is not available on the current hearing dates.

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 because the parties have not established good cause for the continuance because it is presently too far before the current hearing dates of February 1, 2022 to February 3, 2022, for Long Beach Unified School District's counsel to know if she will actually be engaged in hearing in OAH case number 2021100460, the only case mentioned in the moving papers which was filed before this case. If by the week before the presently scheduled PHC, counsel for Long Beach Unified School District is still scheduled to be in hearing in OAH case number 2021100460, the only case filed before this case, from February 1, 2022, to February 3, 2022, the parties may file another request to continue the hearing in this matter.

All currently scheduled dates in this matter remain on calendar.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings