

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090350

ORDER DENYING REQUEST FOR CONTINUANCE

JANUARY 11, 2022

On January 6, 2022, Student filed with the Office of Administrative Hearings, referred to as OAH, a second request to continue this matter, based upon a scheduling conflict. On January 10, 2022, Los Angeles Unified School District opposed the 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. Student has not provided good cause for a second continuance. Student provided two reasons for needing a second continuance. The first reason was a scheduling conflict with an earlier filed case that involves a different school district. Student specifically requested the hearing dates in this case as well as the earlier filed case. In the earlier filed case Student's attorney signed and filed a request to continue that matter on October 19, 2021, requesting hearing dates of January 25, 26, and 27, 2021. OAH granted that request and served the Order Granting the Request to Continue at 10:15 AM on October 20, 2021. On October 20, 2021, at 11:56 AM, Student's attorney signed and filed a request to continue this matter requesting hearing dates of January 25, 26, and 27, 2021. When Student filed the request to continue in this matter Student was aware of the conflict with the earlier filed case. Student has created the conflict which does not constitute good cause for a second continuance.

Student's second reason for wanting a continuance is to finalize a settlement agreement. However, Student did not provide any reason why the draft settlement

agreement that Los Angeles Unified sent to Student on or around December 14, 2021, cannot be finalized by January 25, 2022. Student's second request for a continuance is denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings