

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100144

ORDER DENYING SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT'S REQUEST FOR CONTINUANCE OF DUE
PROCESS HEARING WITHOUT PREJUDICE

JANUARY 25, 2022

On October 4, 2021, Parent on behalf of Student filed a Request for Due Process Hearing with the Office of Administrative Hearings naming Sacramento City Unified School District, referred to as Sacramento City and Rosemont High School. The Office of Administrative Hearings is referred to as OAH.

On November 15, 2021, OAH held a Prehearing Videoconference with the undersigned Administrative Law Judge, referred to as ALJ. Attorney Jennifer Baldasarri appeared on behalf of Sacramento City. No appearance was made by Student's parent. Following the Prehearing Videoconference on November 16, 2021, OAH issued an Order

to Show Cause as to Why Matter Should not be Dismissed and Order Continuing Prehearing Videoconference and Due Process Hearing.

The continued Order to Show Cause Hearing and Prehearing Videoconference and Rosemont High School's Motion to Dismiss was held on November 19, 2021. Student's parent appeared on behalf of Student. Attorneys Kaitlyn Tucker and Jennifer Baldassari appeared on behalf of Sacramento City. Following the continued Prehearing Videoconference, OAH issued an Order finding Student established good cause why the case should not be dismissed, dismissing Rosemont High School as a party and continuing the Prehearing Videoconference to February 4, 2022 at 10:00 am and Due Process Hearing to February 14, 16 and 17. Pursuant to the parties' request, OAH scheduled mediation for December 1, 2021.

On January 24, 2022, Sacramento City filed a Motion to Continue Due Process Hearing based upon its counsel of record's recent illness. OAH did not receive an opposition to the request to continue from Student.

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. All dates shall proceed as currently scheduled.

This Order is denied without prejudice to Sacramento City requesting a continuance at the Prehearing Videoconference scheduled for February 4, 2022, at 10:00 am. Sacramento City may update the ALJ at the Prehearing Videoconference on the status of counsel's health and her other pending hearing mentioned in the continuance request and discuss with the ALJ and Student's parent acceptable dates for continuance of the due process hearing, if necessary.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings