

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021120287

ORDER DENYING CAPISTRANO UNIFIED SCHOOL
DISTRICT'S REQUEST FOR CONTINUANCE
WITHOUT PREJUDICE

JANUARY 12, 2022

On December 8, 2021, Parents on behalf of Student filed with the Office of Administrative Hearings, referred to as OAH, a due process hearing request naming Capistrano Unified School District. On January 6, 2022, Capistrano Unified School District filed a request to continue this matter based upon the unavailability of its counsel and its employee responsible for overseeing and attending due process hearings. OAH did not receive an opposition to the request to continue from Student.

The due process hearing concurrently is scheduled for February 1, 2 and 3, 2022. The prehearing videoconference is scheduled for January 24, 2022, at 1:00 pm.

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 Capistrano Unified School District requesting a continuance closer to the January 24, 2022 prehearing videoconference. Capistrano Unified School District may file closer to the prehearing conference another continuance request if OAH Case No. 2021080796 is going to hearing and update the

Administrative Law Judge at the prehearing videoconference on the status of its other pending hearings mentioned in the continuance request.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings