

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021100053

ORDER DENYING REQUEST FOR CONTINUANCE

FEBRUARY 15, 2022

On September 30, 2021, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Bellflower Unified School District. On November 9, 2021, OAH granted the parties' joint request to schedule mediation and continue the due process hearing. OAH set mediation on January 11, 2022, and the hearing to begin on February 15, 2022. Student cancelled the January 11, 2022 mediation. On January 27, 2022, OAH granted Student's request to amend the complaint, which reset the hearing to begin on March 15, 2022.

On February 15, 2022, the parties filed a second request to continue the due process hearing and requested new hearing dates in May 2022. The parties argue there is good cause for the continuance because this case is not yet ready for hearing for several reasons. First, the parties represent they have mediation scheduled on March

18, 2022, in an unrelated federal case that stems from an OAH case filed in 2019. The parties believe a global settlement may result from the mediation, which could also resolve this case. Second, Student argues Bellflower failed to produce school records in response to a September 30, 2021 request. Third, Student argues one of its anticipated experts for hearing is not available until March 21, 2022. Finally, Bellflower argues a continuance until May 2022 is necessary because it is not available to participate in a hearing for this case during April 2022.

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. The parties failed to show good cause to further continue the due process hearing in this case. By the time of the scheduled hearing in March 2022, this case will have been pending for more than five months. Mediation in an unrelated case, a pending records request from four months ago, unavailability of one witness, nor Bellflower's anticipated unavailability after the hearing in this case is set to start establishes good cause to continue the due process hearing for nearly an additional two months. OAH has a duty to timely hear and decide the issues in this case. Accordingly, the parties' Motion to Continue is denied.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings