

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

HESPERIA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010449

ORDER DENYING REQUEST FOR CONTINUANCE

FEBRUARY 24, 2022

On January 19, 2022, Student filed a Request for Due Process Hearing, with the Office of Administrative Hearings, called OAH, naming Hesperia Unified School District. On February 16, 2022, the parties participated in mediation but did not resolve the case. On February 23, 2022, Student filed a request to continue the due process hearing, which is set to begin on March 8, 2022, due to the unavailability of unidentified Student witnesses. Also, on February 23, 2022, Hesperia filed an opposition to Student's motion.

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 did not establish good cause to continue the due process hearing. Student's request indicated its witnesses are unavailable for hearing, but it did not specify which witnesses are unavailable or on which dates they are unavailable.

Further, Student's request did not indicate any attempts to meet and confer with Hesperia regarding the continuance. Accordingly, Student's request for continuance is denied. The case will proceed as scheduled.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings