

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
NEW HAVEN UNIFIED SCHOOL DISTRICT,

V.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022020545

ORDER DENYING REQUEST FOR CONTINUANCE

FEBRUARY 28, 2022

On February 25, 2022, Student filed with the Office of Administrative Hearings, referred to as OAH, a request to continue the prehearing conference to April 5, 2022 and to continue the hearing to April 5 through 7, 2022. The stated grounds for the continuance are to allow Student to properly prepare the case and provide new exhibits to OAH. Student also argues that their appearance in April 2022 will also have to be determined by the recommendations of their doctors. On February 28, 2022, New Haven Unified School District filed a notice of non-opposition, but argued that it was unavailable beginning on April 4, 2022 because of Spring Break and another hearing the following week, and requested that the hearing be continued to April 26, 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 without prejudice. Requests to continue due process hearings require a showing of good cause. While Student claims more time is needed to properly prepare for hearing, it is unclear from the papers why Student requires additional time to submit exhibits obtained last week. Further, neither party met and conferred with the other party before they filed their papers to determine if they could agree upon dates for the continuance. New Haven does not agree to the dates proposed by Student and New Haven did not obtain Student's agreement to the later dates it proposed. In addition,

the prehearing conference date requested by Student is too close to the requested hearing dates. Prehearing conferences are generally held five to ten business days before the requested hearing dates.

The prehearing conference on March 7, 2022 at 1:00 PM shall proceed as scheduled. Any requested continuance can be addressed by the ALJ at that time. The parties are also ordered to meet and confer prior to filing or otherwise making a new request which seeks to continue the hearing. The hearing on March 15 through 17, 2022 shall proceed as scheduled unless otherwise ordered.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings