

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

BAY AREA TECHNOLOGY SCHOOL,

V.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022020842

ORDER DENYING REQUEST FOR CONTINUANCE

MARCH 9, 2022

On February 25, 2022, Bay Area Technology School filed with the Office of Administrative Hearings, referred to as OAH, a request for due process hearing, naming Student. On March 9, 2022, Student filed a request to continue this matter because the family did not receive the documents pertaining to this matter until March 7, 2022 and require additional time to find legal representation to adequately respond.

On March 9, 2022, Bay Area Technology responded to Student's request to continue the hearing. Its counsel has two other hearings scheduled at the same time as the hearing in this matter. It does not oppose Student's continuance request and proposes that the hearing be continued until April 20 and 21, 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. Student has established good cause for a continuance of the hearing based on the delay in receiving the papers and requiring additional time to obtain counsel. However, Student did not propose any new hearing dates or establish that he met and conferred with the opposing party prior to filing the request to

continue in an effort to agree upon new dates. Bay Area Technology proposed new dates in its response, but there is no showing that it met and conferred with Student or obtained Student's agreement to the dates it proposed.

All currently scheduled dates are confirmed. The prehearing conference on March 14, 2022 at 3:00 PM shall proceed as scheduled. Any requested continuance can be addressed at that time by the Administrative Law Judge presiding over the prehearing conference. The parties are also ordered to meet and confer prior to filing or otherwise making a new request which seeks to continue the hearing.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings