

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

BELMONT-REDWOOD SHORES SCHOOL DISTRICT.

OAH CASE NUMBER 2024020041

ORDER DENYING REQUEST FOR CONTINUANCE

APRIL 04, 2024

On February 1, 2024, Student filed a request for due process hearing with the Office of Administrative Hearings, or OAH, naming Belmont Redwood Shores School District. On February 13, 2024, OAH granted the parties' joint request to continue the hearing to May 7 through 9, 2024, so the parties could participate in mediation. On April 2, 2024, the parties participated in mediation.

On April 4, 2024, the parties filed a joint request for a second continuance of the hearing on the grounds that Belmont-Redwood and its counsel are scheduled for a hearing in another matter during the week of May 7, 2024, which has twice been continued. The parties also claim to want to reserve "the right" to participate in a second mediation.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or
- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The parties have failed to establish good cause for a second continuance of the hearing. The request is premature to the extent it is based on the alleged conflict with the hearing in the other matter. The hearing is still over a month away and one or both matters could settle. Furthermore, Belmont-Redwood and its counsel knew on February 14, 2024, that the current matter had been set for hearing during the week of May 7, 2024. Yet, they did not oppose the February 29, 2024, request made in the other matter to set that hearing on the same days as the current case. Thus, the alleged conflict upon which the parties base their request for a second continuance appears to be of Respondent's own creation, which has not been addressed in the moving papers.

Finally, the parties do not have "a right" to participate in a second mediation. Upon a proper showing, OAH may grant a joint request for a second mediation. Here, the parties are not seeking a second mediation and have made no adequate showing to support such a request, in any event. The vague assertion that the parties want to reserve the right to participate in a second mediation is insufficient to establish good cause for a second continuance of the hearing.

The request is denied without prejudice. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED.

Laurie Gorsline

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Administrative Law Judge

Office of Administrative Hearings