

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024020842

ORDER DENYING REQUEST FOR VIDEOCONFERENCE
MEDIATION AND CONTINUANCE OF DUE PROCESS
HEARING

APRIL 2, 2024

On February 27, 2024, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Fresno Unified School District. OAH set the prehearing conference for April 5, 2024, and the hearing to begin on April 16, 2024.

On March 22, 2024, the parties jointly requested a continuance to mediate this matter. The parties requested mediation on April 19, 2024, and for the due process hearing to begin on October 15, 2024. OAH denied the parties' request because the requested hearing dates were more than 60 days after the requested mediation date.

On April 2, 2024, the parties jointly requested a continuance to mediate with a requested mediation date of September 26, 2024, and the same requested hearing start date of October 15, 2024.

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 did not establish good cause to continue the due process hearing for six months. Requesting a mediation is sufficient good cause to continue the due process hearing to a date within 60 days of the mediation. However, instead of requesting hearing dates within 60 days of the requested April 19, 2024, mediation date, the parties requested a mediation date five and a half months after the initial hearing dates to comply with the technical requirement of keeping the requested hearing dates within 60 days of the requested mediation date.

The request is denied without prejudice. The parties may resubmit their request with hearing dates within 60 days of the requested April 19, 2024, mediation date or declaration establishing good cause to continue the hearing for such a significant amount of time.

IT IS SO ORDERED

Linda Dowd

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings