

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

PALM SPRINGS UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2024030962

OAH CASE NUMBER 2024040619

ORDER DENYING REQUEST FOR CONTINUANCE

APRIL 30, 2024

On April 25, 2024, Student filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. On April 29, 2024, Palm Springs Unified opposed the request. On April 29, 2024, Student filed a response to Palm Springs' opposition.

Student contends the hearing should be continued because counsel for Student has another due process hearing scheduled at the same time and an expert witness for Student is unavailable. Palm Springs contends the hearing should proceed as the case counsel for Student alleges is in conflict was filed after the instant case. Moreover,

Student never established the reason or the length of time of unavailability of her key expert witness.

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).)

Student did not establish good cause to continue the due process hearing. The other due process case Student identified was filed after the instant case. Student failed to establish the circumstances rendering her expert witness unavailable. Student simply stated that the expert witness was unavailable on the dates scheduled and provided no further information on when the expert witness would be available. Moreover, Student stated she desired to mediate the matter; however, mediation is a voluntary process that requires a joint request by both parties. No such joint request has been made.

The request is denied. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared. Nothing in this Order shall preclude either party from resubmitting a continuance request.

IT IS SO ORDERED.



Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings