BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

CENTRAL UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2023030998

ORDER DENYING REQUEST TO REOPEN ADMINISTRATIVE RECORD

MAY 15, 2023

On March 28, 2023, Central Unified School District filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, naming Parent on behalf of Student. The Office of Administrative Hearings is called OAH. On April 5, 2023, Central filed a motion to amend and amended complaint, which OAH granted on April 6, 2023, setting hearing days of May 2, 2023, through May 4, 2023.

OAH held a due process hearing in this matter on May 2, 3, and 4, 2023. Central participated on all hearing days. Parent participated in the hearing on May 2 and 3, 2023. On May 4, 2023, Parent left a voicemail on the OAH telephone line stating she would not attend the hearing due to a medical emergency. Parent also emailed

Central's attorney several times on May 4, 2023, explaining that she was having a medical emergency. Parent did not file any motions or written requests with OAH. Central called its final witnesses, who were released at the conclusion of their testimony. All documentary evidence was reviewed, stamped, and admitted. The due process hearing concluded at the end of the day on May 4, 2023, the matter submitted, and the administrative record closed. The matter was continued to June 5, 2023, for written closing briefs.

On May 9 and 10, 2023, Parent filed a written request to reopen the administrative record so Parent could cross-examine witnesses who testified and were released on May 4, 2023. Central opposed the motion.

Student's motion to reopen the administrative record is denied as Student failed to establish good cause. Central finished examining its witnesses on May 4, 2023, and rested its case. Parent now requests to reopen the administrative record so that Parent can hear the testimony of several Central witnesses and cross-examine them. A party to a due process hearing has the right to confront and cross-examine witnesses. (Ed. Code 56505(e)(3).) However, Parent did not support her motion with a sworn declaration or medical documentation showing she was incapacitated or otherwise medically unable to participate in the videoconference due process hearing. Parent made phone calls and wrote emails throughout the day on May 4, 2023. She did not establish that she could not use her phone to observe and participate in the video hearing.

Additionally, the equities do not support reopening the evidentiary record in this matter. The witnesses have been dismissed. One of the witnesses, Dr. James Horspool, appeared reluctantly and only pursuant to a subpoena. It would be burdensome to the witnesses, Central, and OAH to reopen the evidentiary testimony. The process would necessarily involve repeated testimony by the witnesses, amounting to cumulative

evidence and a lack of judicial economy. Finally, any prejudice to Student is mitigated by the fact that Student did not have the burden of proof in this matter, and Student did not intend to call any witnesses in this matter, other than Parent, who testified on May 2, 2023.

ORDER

Student's motion to reopen the administrative record is denied.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings