

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NATOMAS UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012050482

ORDER DENYING REQUEST FOR
CONTINUANCE

On July 2, 2012, the parties filed a joint request for continuance. The parties erroneously contend that this is an initial request for continuance. This matter was filed on May 10, 2012, and has previously been continued.

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. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings (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; and any other relevant fact or circumstance. (See 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. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. On June 22, 2012, the undersigned granted the Natomas Unified School District's (District's) request for continuance, over Student's

objection.¹ On July 2, 2012, Student obtained new counsel. It is presumed that Student's new counsel undertook this representation with full knowledge of the hearing dates in this matter. The parties filed a joint request for continuance and contend that this is the first request for continuance. As discussed herein, the parties are incorrect. The parties failed to provide any facts that would constitute good cause for further continuance of this matter. Accordingly, the request to continue is denied.

IT IS SO ORDERED.

Dated: July 3, 2012

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings

¹ At that time, the undersigned took into consideration District's summer break and did not find it to constitute good cause to delay the hearing into the next school year.