

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

NEW HAVEN UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012061223

ORDER DENYING REQUEST FOR
CONTINUANCE

On July 3, 2012, Parent, on behalf of Student, filed a request for continuance asserting that Parent had conflicts with the currently set due process hearing date. Parent did not provide any documentation showing that the New Haven Unified School District (District) was served with Student's request.

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 hearing dates and timelines shall proceed as calendared. Here, there is no indication that Student served District with the request. District did not file a response, which supports the contention that District has not been served. Student is

directed to meet and confer with District to determine if the parties can jointly agree upon a continuance. If the parties agree, they may file a joint request for continuance. If the parties cannot agree, Student may re-file his request for a continuance. Student should provide proof that he served District with any future request for continuance and Student should describe Parent's conflict in greater detail than described in the current request. Accordingly, Student's request to continue is denied without prejudice.

IT IS SO ORDERED.

Dated: July 10, 2012

/s/

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