

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2013051022

ORDER DENYING REQUEST FOR  
CONTINUANCE

On October 16, 2013, the parties filed a request to continue the dates in this matter. The parties contend that this is the first requested continuance.

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. The parties' contention that this is the first request for continuance is presumably based upon the filing of an amended complaint in this matter. However, the initial complaint in this matter was filed on May 23, 2013. The

parties request a due process hearing in January 2014. This would put the decision in this matter, following a due process hearing, at approximately eight or more months from the date of filing of the initial complaint. Such a delay in the prosecution of this matter, even by joint consent of the parties, is not in keeping with the speedy resolution mandate of the Individuals with Disabilities Education Act. The parties have failed to provide any information to establish good cause for such a continuance. The parties may re-file their request if they can establish good cause. Accordingly, the request to continue is denied, without prejudice.

IT IS SO ORDERED.

Dated: October 17, 2013

/s/

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