

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HUNTINGTON BEACH UNION HIGH
SCHOOL DISTRICT.

OAH CASE NO. 2013070970

ORDER DISMISSING EXPEDITED
ISSUES, VACATING EXPEDITED
HEARING DATES AND GRANTING
CONTINUANCE OF NON-
EXPEDITED MEDIATION

This matter contains both issues subject to the expedited hearing procedures of the Individuals with Disabilities Education Act (IDEA) and issues subject to the non-expedited hearing procedures of the IDEA. The Office of Administrative Hearings (OAH) set this matter on a dual hearing calendar for the expedited and non-expedited portions of the case. On July 31, 2013, Meldie Moore, attorney for Student, filed a request to dismiss the expedited portion of this matter. Ms. Moore also requested that the mediation in the non-expedited portion of the matter be set for September 27, 2013, and represented that this was a joint request.

Dismissal of Expedited Matter

No hearing has commenced in the expedited portion of this matter and therefore, Student has the right to withdraw or dismiss her issues subject to an expedited hearing without requesting leave from OAH. Accordingly, all issues in this matter subject to the expedited procedures of the IDEA are dismissed. OAH shall vacate all expedited mediation, prehearing conference and due process hearing dates.

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).) 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 to continue the mediation for good cause and considered all relevant facts and circumstances. The request is:

Granted. The mediation date of August 27, 2013, is vacated. This matter will be set as follows:

Mediation:	October 9, 2013, at 9:30 AM
Prehearing Conference:	September 9, 2013, at 1:00 PM
Due Process Hearing:	September 17, 2013, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The parties did not request that the prehearing conference and the due process hearing in the non-expedited portion of this matter be continued. Accordingly, those dates remain on calendar. The parties are encouraged to submit a joint request for continuance that would seek dates for a prehearing conference and due process hearing beyond the above set date for mediation.

IT IS SO ORDERED.

Dated: August 1, 2013

/s/

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