

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ALTOS SCHOOL DISTRICT.

OAH Case No. 2014060171

ORDER DENYING REQUEST FOR
CONTINUANCE

On November 20, 2014, the parties filed a joint request to continue the dates in this matter. The parties contend this is an initial request for hearing and have failed to provide any factual basis to establish good cause.

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 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. Student filed the initial complaint in this matter on June 2, 2014. Subsequently at mediation, the parties reached an interim agreement, and requested a continuance to accomplish the terms agreed to in that agreement. OAH granted the continuance and set this matter on dates agreed to by the parties in

November 2014. This was a substantial continuance. On October 9, 2014, Student moved to amend his complaint. OAH granted the request, and the dates in this matter were reset as the time line was restarted by the amendment. This further delayed a final resolution of this matter. Now, the parties move to continue this case again and assert that this is an initial continuance request. OAH typically grants joint initial continuance requests. However, this is not an initial continuance request. The amending of a complaint does not erase prior continuances in the case. Were it so, a party could repeatedly amend his or her complaint, and seek an endless number of initial continuance requests. The Individuals with Disabilities Education Act requires a speedy resolution to these matters. The parties' request to set hearing in February 2015 will likely result in the passing of almost one year from the date of the initial complaint in this matter to the issuance of a written decision. This does not serve the speedy resolution mandate of the IDEA. The parties' request is denied.

IT IS SO ORDERED.

DATE: November 20, 2014

/s/

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