

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PAJARO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012010261

ORDER DENYING REQUEST FOR
CONTINUANCE

The initial complaint in this matter was filed on January 10, 2012. On June 5, 2012, the Office of Administrative Hearings (OAH) deemed Student's amended complaint filed, effective June 5, 2012. On June 7, 2012, OAH issued a scheduling order that set the current mediation, prehearing conference and due process hearing dates in this matter. On June 28, 2012, the parties filed a joint request to continue the dates in this matter.

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 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 contend that this is the first request for

continuance, presumably because they base it upon the filing of the amended complaint. However, this is in effect the third request to continue this matter, from the filing of the original complaint. Previously the parties have been given two continuances prior to the filing of the amended complaint. Their currently requested hearing dates would result in a written decision being rendered in October 2012. This would be approximately 10 months from the filing of this action, which is not acceptable, or in conformity with the speedy resolution mandate of the Individuals with Disabilities Education Act. Furthermore, Student has asserted in his amended complaint that he has been seeking to resolve a dispute which arose in October 2011. The parties' current request would put resolution of the dispute almost a calendar year from when it arose. Accordingly, the request to continue is denied. If the parties believe there is good cause for a third continuance, they may renew their motion for a continuance.

IT IS SO ORDERED.

Dated: June 28, 2012

/s/

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