

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

LOS GATOS-SARATOGA UNION HIGH
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012031024

ORDER DENYING REQUEST FOR
CONTINUANCE AND SETTING
MEDIATION

On May 14, 2012, Parent, on behalf of Student, filed a request to continue the dates in this matter on the grounds that Parent wanted to participate in further mediation. On May 15, 2012, the Los Gatos-Saratoga Union High School District (District) filed a request for mediation on behalf of both parties and stated that both parties agreed to mediate on May 23, 2012. On May 16, 2012, District filed an opposition to Student's request for 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. This matter is set for due process hearing on June 5 through 7,

2012. The parties participated in mediation on April 10, 2012, and chose these dates while at the mediation. Student's sole reason for the requested continuance is that Parent desires further mediation. On May 15, 2012, the parties informed OAH that they had agreed to participate in further mediation on May 23, 2012. Therefore, Student's reason for a continuance is moot.¹ Accordingly the request to continue this matter is denied.

OAH notes that Parent did not serve District with a copy of the May 14, 2012 request for continuance. However, on May 17, 2012, Parent filed a further request for continuance in which Parent states that she served District directly with her May 14, 2012 request, and since then has corrected her services and is now serving District's counsel. Accordingly, an order directing parent to serve District's counsel is not necessary and that request is denied.

OAH will schedule mediation for May 23, 2012, pursuant to the parties' request. All other dates shall remain as calendared.²

IT IS SO ORDERED.

Dated: May 17, 2012

/s/

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

¹ Mediation is voluntary and had District not agreed to mediation, Student may still have failed to establish good cause for a continuance as OAH does not have authority to order any party to participate in mediation.

² Student's May 17, 2012 letter with further grounds for a continuance shall be treated as a separate request for continuance and OAH shall wait three business days to rule on the new request, in order to give District the requisite time to respond, if it chooses to do so. District may file a response sooner if it desires and need not wait until the third business day.