

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

EVERGREEN SCHOOL DISTRICT.

OAH CASE NO. 2013080011

ORDER DENYING REQUEST FOR  
CONTINUANCE

On February 11, 2014, the parties filed a request to continue the dates in this matter based upon the parties' continued inability to timely complete independent evaluations of Student, agreed to in an interim agreement. This is the parties' fourth request to continue this matter and is denied.

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 undersigned is not persuaded by any grounds set forth by the parties for a fourth continuance of this matter. The parties' inability to confer with independent assessors to ascertain their availability prior to repeated requests for continuances; to plan for alternative assessors; and to timely determine when and whether they will be able to complete assessments, hold meetings and participate in mediation prior to hearing, does not constitute good cause for a fourth continuance of a matter that was filed in July 2013.

IT IS SO ORDERED.

DATE: February 11, 2014

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