

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2013110142

v.

FOUNTAIN VALLEY SCHOOL DISTRICT,

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FOUNTAIN VALLEY SCHOOL DISTRICT,

OAH CASE NO. 2013090553

v.

PARENT ON BEHALF OF STUDENT.

ORDER DENYING REQUEST FOR  
CONTINUANCE

On February 25, 2014, the parties filed a request to continue the dates in this matter on the grounds that they require additional time to hold an individualized education program (IEP) team meeting to review an independent educational evaluation (IEE) of Student, and participate in mediation. As discussed below, the request 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 Fountain Valley School District filed its case in these consolidated matters on September 18, 2013. Student filed his case on November 1, 2013. The parties now request a hearing date in middle June 2014. This would effectively place any written decision in this matter approximately 10 to 11 months from the date of filing of the first case in these consolidated matters. Such a long delay goes against the speedy resolution mandate of the Individuals with Disabilities Education Act, and is not an acceptable delay. Furthermore, the parties are represented by skilled counsel who should have anticipated that when an IEE is conducted and an IEP team meeting is anticipated in the middle of litigation, it is not uncommon to have unexpected delays due to the schedules of assessors and parties. The parties' failure to properly plan their IEE and IEP is not good cause for a further continuance in this matter. Accordingly, the request to continue is denied.

IT IS SO ORDERED.

DATE: February 25, 2014

/s/

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