

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013110737

ORDER DENYING REQUEST FOR
CONTINUANCE

On February 28, 2014, the parties filed a request to continue the dates in this matter on the grounds that the parties desired to hold an individualized education program (IEP) team meeting and participate in mediation prior to proceeding to a due process hearing. The matter is set for a prehearing conference on March 3, 2014, and due process hearing on March 11, 2014. The matter was filed in November 2013 and has been continued previously. As set forth 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 parties have previously continued this matter and have

been given an opportunity to participate in mediation. The fact that the parties have decided not to take advantage of mediation previously does not constitute good cause. Equally, the parties' desire to hold an IEP team meeting does not constitute good cause. The parties have provided no information as to how an IEP team meeting now will resolve issues raised in Student's complaint in November 2011. It is equally feasible that the IEP team meeting will result in a new dispute, which will lead to a motion to amend Student's current complaint and further delay of a final resolution. As the parties have failed to establish good cause, the request to continue is denied.

IT IS SO ORDERED.

DATE: February 28, 2014

/s/

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