

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. 2014010890

ORDER DENYING REQUEST FOR
CONTINUANCE

On April 1, 2014, the parties filed a request to continue the dates in this matter on the grounds that they had not had an opportunity to mediate this matter.¹ As set forth below, the parties have failed to establish good cause and 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 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 was filed on January 23, 2014. The initial

¹ The request was submitted on March 31, 2014. However, because March 31, 2014, was a state holiday, the request is deemed filed on April 1, 2014.

scheduling order set mediation for February 27, 2014. On February 26, 2014, the Irvine Unified School District canceled the mediation. On March 4, 2014, the parties filed a request for continuance, wherein they chose the mediation date of March 27, 2014. OAH granted the parties' request. Subsequently, the parties decided to cancel the March 27, 2014 mediation as well. Now they move to continue the matter because they have not been afforded an opportunity to participate in mediation. The parties have failed to provide any explanation as to why they have canceled two mediation dates, including one that they jointly agreed to. Accordingly, they have failed to establish good cause and the request to continue is denied, without prejudice.

IT IS SO ORDERED.

DATE: April 1, 2014

/s/

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