

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

REDWOOD CITY SCHOOL DISTRICT
AND BELMONT-REDWOOD SHORES
SCHOOL DISTRICT.

OAH Case No. 2015070264

ORDER DENYING REQUEST FOR
CONTINUANCE

On September 22, 2015, the parties filed a request to continue the dates in this matter on the grounds that a pending motion pertaining to Belmont-Redwood Shores School District had not been ruled upon; Redwood City School District had recently obtained new counsel; and Student's parent was out of town on a job assignment until October 19, 2015. This matter has previously been continued. 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 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 hearing dates and timelines shall proceed as calendared. First, the pending motion pertaining to whether Belmont is a proper party has been ruled upon

and a separate order has been issued. Second, Redwood City's new counsel substituted into the matter on September 15, 2015. It is presumed that counsel took on representation with knowledge of the dates in this matter. No details, through a declaration under oath or other pleadings, are provided as to how the recent substitution hinders Redwood City's ability to proceed with the matter as calendared. Finally, no information is provided, through a declaration under oath, as to when Parent was assigned the out of town job and when Student's counsel learned about the assignment. If parties feel they can establish good cause consistent with this order, they may file a new request for continuance. The request to continue is denied without prejudice.

IT IS SO ORDERED.

DATE: September 22, 2015

/s/

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