

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

GREENFIELD UNION SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012031251

ORDER DENYING REQUEST FOR
CONTINUANCE

On June 7, 2012, Daniel R. Shaw, attorney for Student, filed a request to continue the dates in this matter on the grounds that Student had just recently acquired the services of Mr. Shaw, who needed time to receive educational records, prepare for the case and participate in mediation. On June 8, 2012, the Office of Administrative Hearings (OAH) received a statement of non-opposition from the Greenfield Union School District (District).

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).) 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. Student's request states that counsel is available in July 2012, except July 30 through August 1, 2012. Student states that District did not provide

Student with its availability. District's response states that the parties are currently working on reaching an agreement on dates. Here, OAH finds there is good cause for the continuance and is inclined to grant the continuance. However, the parties should meet and confer first to determine if they can arrive at mutually agreeable dates. Accordingly, the request for continuance is denied without prejudice. The parties should submit a joint request for continuance with agreed upon dates, or request that OAH set dates if the parties are unable to find mutually agreeable dates.

IT IS SO ORDERED.

Dated: June 8, 2012

/s/

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