

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASO ROBLES JOINT UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2012040333

ORDER DENYING REQUEST FOR
CONTINUANCE

On April 6, 2012, Student filed an expedited request for due process hearing with the Office of Administrative Hearings (OAH). On April 10, 2012, OAH issued a scheduling order setting this matter for an expedited due process hearing on May 8 through May 10, 2012. On April 18, 2012, the parties filed a joint request for continuance, seeking to continue the hearing to May 22, 2012.

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. Here, Student has requested an expedited due process hearing. An expedited hearing shall be held within 20 school days of the date the hearing is

requested. A decision shall be made by the hearing officer within 10 school days thereafter. (20 U.S.C. § 1415(k)(4)(B).) The Individuals with Disabilities Education Act and related state law do not provide for a continuance of expedited hearings that would put the hearing beyond 20 school days or delay the rendering of a decision within 10 school days of the completion of the due process hearing. Accordingly, the parties request to continue the due process hearing is denied. Because the parties have requested the mediation be continued to May 8, 2012, which is the first day of the currently calendared due process hearing, that request is also denied. The parties may submit a request to continue the mediation to a date before May 8, 2012, on a Tuesday, Wednesday or Thursday, if they still desire to continue the mediation.

IT IS SO ORDERED.

Dated: April 19, 2012

/s/

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