

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DAVIS JOINT UNIFIED SCHOOL
DISTRICT AND YOLO COUNTY
DEPARTMENT OF ALCOHOL, DRUG
AND MENTAL HEALTH.

OAH CASE NO. 2012040965

ORDER DENYING REQUEST FOR
CONTINUANCE

On May 11, 2012, the Office of Administrative Hearings (OAH) received a request for continuance from Theresa Smith, Clinical Program Manager for the Yolo County Department of Alcohol, Drug and Mental Health (County). The form filed by County does not contain the requisite signatures from counsel for Student and the Davis Joint Unified School District (District). Furthermore, County does not provide a proof of service establishing that it served the request on the other parties in this action. Accordingly, County's request will be treated as a request for continuance and not as a joint request for continuance, despite County having submitted it on the joint request for continuance form. Because County's request is denied, OAH need not wait for a response from Student or District.¹

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

¹ Responses which may never be filed since neither Student nor District were served with County's request.

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 County failed to obtain signatures from all parties, though the document seems to indicate that the other parties may not be opposed to the continuance. Furthermore, County has failed to provide proof that it served either Student or District with its request. The parties are ordered to meet and confer as to a continuance. If the parties are unable to jointly request a continuance, either party may file a motion for continuance, and properly serve it upon all other parties. At that time, OAH will determine if the parties have provided good cause for a continuance. County's request for a continuance is denied.

IT IS SO ORDERED.

Dated: May 14, 2012

/s/

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