

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CALIFORNIA SCHOOL FOR THE DEAF
AND MORENO VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2014020430

ORDER DENYING REQUEST FOR
CONTINUANCE

On February 11, 2014, Student filed a request for a hearing (complaint) naming Moreno Valley Unified School District (Moreno Valley) and California School for the Deaf (School for the Deaf). The complaint requested independent educational evaluation. The only other issues, alleged violations under the section 504 Rehabilitation Act of 1973, the Americans with Disabilities Act, and state civil rights laws, were dismissed by the Office of Administrative Hearings (OAH) on March 7, 2014.

On March 26, 2014, Student filed a request to continue the dates in this matter. The request is based on the need to complete assessments prior to a hearing to determine Student's educational needs and appropriate remedies. On March 27, 2014, District opposed the request. District opposed the request because the only issue in the hearing is whether it must perform an assessment, and that Student's educational needs are not at issue and the requested dates are at the end of the school year, making it difficult for District to participate in the hearing. Also on March 27, 2014, School for the Deaf filed a separate opposition to Student's request; asserting that Student had failed to establish good cause and the motion was untimely. A prehearing conference is scheduled for March 28, 2014, and the hearing is scheduled to begin on April 8, 2014.

APPLICABLE LAW AND DISCUSSION

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.

IT IS SO ORDERED.

DATE: March 28, 2014

/s/

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