

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEA COMMUNITY LEARNING CENTER
& EL DORADO COUNTY SELPA.

OAH CASE NO. 2012120225

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On January 17, 2013, the parties filed a request to continue the dates in this matter. There have been no prior continuances.

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 (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. Here, OAH is inclined to grant the request for continuance. However, the parties request a prehearing conference (PHC) date of January 30, 2013, and due process hearing date of February 6, 2013, neither of which OAH can accommodate. OAH is dark the week of January 28, 2013, due to previously scheduled training. OAH cannot accommodate a date of February 6, 2013, for the due process hearing.

Accordingly, the parties are ordered to consider PHC and due process hearing dates in the week of February 11, 2013, or later. The undersigned notes that this matter is currently set for hearing on January 30, 2013. If the parties do not file a new request for continuance, they are hereby noticed that OAH will continue the hearing date on its own motion.

IT IS SO ORDERED.

Dated: January 17, 2013

/s/

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