

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

FRESNO UNIFIED SCHOOL DISTRICT,

v.

STUDENT.

OAH CASE NO. 2012110106

ORDER DENYING REQUEST FOR
CONTINUANCE

On January 10, 2013, Parent, on behalf of Student, filed a request to continue the due process hearing in this matter. Parent contends that due to issues with her telephone she was unable to participate in the January 7, 2013 prehearing conference. While Parent's factual allegations conflict with the order following the prehearing conference, those factual inconsistencies are not relevant to this order. Parent contends that due to medical issues, she cannot participate in the currently scheduled due process hearing. Parent provided a doctor's note that only limits Parent's ability to participate until January 15, 2013. The due process hearing is scheduled to begin on January 23, 2013. Furthermore, the doctor's note is vague and provides no information as to Parent's medical condition or the limitations it places upon Parent's ability to participate in a due process hearing. On January 14, 2013, the Fresno Unified School District filed an opposition to Parent's request, which need not be considered as Parent's motion fails on its own merit.

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. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Parent's letter, accompanied by a vague and outdated doctor's note fails to establish good cause for a continuance.

IT IS SO ORDERED.

Dated: January 15, 2013

/s/

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