

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012110446

v.

SAN LUIS COASTAL UNIFIED SCHOOL
DISTRICT,

SAN LUIS COASTAL UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2012080851

v.

PARENT ON BEHALF OF STUDENT.

ORDER DENYING REQUEST FOR
CONTINUANCE

On February 11, 2013, the parties filed a request to continue the dates in this matter. The parties contend this is an initial request for continuance and therefore, provide no factual basis to establish good cause for the continuance.

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. This is a consolidated matter wherein the San Luis Coastal Unified School District filed its complaint on August 28, 2012. Student filed her initial complaint on November 15, 2012. While Student may have amended her complaint subsequently, an amended complaint does not magically erase prior continuances. This is not the first continuance request in these matters. These matters have been pending for a substantial amount of time. The parties provide no factual basis for a further continuance. Therefore, they have failed to establish good cause and the request to continue is denied.

IT IS SO ORDERED.

Dated: February 11, 2013

/s/

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