

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MARIN COUNTY OFFICE OF
EDUCATION AND TAMALPAIS UNION
HIGH SCHOOL DISTRICT.

OAH CASE NO. 2014051234

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On June 4, 2014, Parent on behalf of Student (Student) filed a request to continue the hearing date in this matter. The matter is currently set for hearing on July 16, 2014. The Office of Administrative Hearings has not received a response from the Marin County Office of Education (County) or the Tamalpais Union High School District (Tamalpais).

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. Here, Parent contends that she must drop Student off at the airport on July 16, 2014, for a prepaid trip, which cannot be changed. Here, OAH is

inclined to grant the request to continue as Student has established good cause. However, there is no evidence that Parent contacted County and Tamalpais to determine if they would voluntarily agree to a continuance. OAH requires parties to meet and confer, and attempt to come to an agreement on a continuance request prior to filing with OAH. Parent is encouraged to work with County and Tamalpais to see if the parties can come to agreement on a joint request for continuance. Accordingly, the request to continue is denied without prejudice. If the parties cannot agree on a continuance, Student may resubmit the request to continue.

IT IS SO ORDERED.

DATE: June 10, 2014

/s/

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