

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014050902

ORDER DENYING REQUEST FOR
CONTINUANCE

The mediation in this matter was set for June 19, 2014, but was canceled by the parties. The due process hearing in this matter is set for July 10, 2014. On June 26, 2014, the parties filed a request to continue the dates in this matter. This was the initial continuance request and the parties used the Office of Administrative Hearings' pre-approved form. As set out below, the request is denied.

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. While parties may use OAH's pre-approved form and initial continuance requests are routinely granted; the parties are still required to carefully

read the form they are executing and comply with its requirements for providing necessary information. Here, the form clearly states that if the parties are requesting a continued mediation more than 30 days from the original mediation, they must provide additional information. The parties have requested mediation on October 9, 2014, almost four months from the original mediation date of June 19, 2014.

The form also requires additional information if the parties request a due process hearing date later than 90 days from the original hearing date. Here the parties have requested a due process hearing to commence on October 21, 2014, which is more than 90 days from the original hearing date of July 10, 2014. The request for continuance is denied.¹

IT IS SO ORDERED.

DATE: June 30, 2014

/s/

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

¹ The prehearing conference in this matter is set for June 30, 2014. Neither party has filed a prehearing conference statement, perhaps because they assumed their continuance request would be granted. The parties are cautioned that failing to comply with OAH orders, in reliance of continuance requests that have not been granted, will result in an Order to Show Cause if it happens again in this matter. The prehearing conference of June 30, 2014, shall proceed as scheduled.