

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CRUZ CITY SCHOOL DISTRICT.

OAH CASE NO. 2014020463

ORDER DENYING REQUEST FOR
CONTINUANCE

On July 8, 2014, at 12:11 p.m. the Office of Administrative Hearings received from Laurie E. Reynolds' office, attorney for the Santa Cruz City School District, a joint request to continue the dates in this matter. The joint request was signed by Linda Martin, on behalf of Ms. Reynolds, on July 8, 2014. The importance of the time OAH received this request and the date Ms. Reynolds' office signed the request is relevant to the discussion below, denying the request for 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).) 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. The parties allege that they are not available on the currently scheduled due process date of July 22, 2014. They provide no further information

and seek a continuance to September 30, 2014. This matter was filed on February 12, 2014, and such a continuance would put a written decision in this matter at over eight months from the date of filing. Such a lengthy continuance does not meet the speedy mandate of the Individuals with Disabilities Education Act.

Additional grounds exist to deny this continuance request. On June 27, 2014, Ms. Reynolds' office, on her behalf, filed a request to continue the due process hearing in OAH Case No. 2014051223, which was also was set for hearing on July 22, 2014. One of the grounds for continuance in that case was that Ms. Reynolds was scheduled for hearing in this matter. On July 8, 2014, the undersigned granted a continuance in OAH Case No. 2014051223. That order was served on Ms. Reynolds' firm by facsimile at 9:18 a.m. on July 8, 2014. Within three hours of that service, Ms. Reynolds' firm filed the joint request to continue this matter, signed July 8, 2014. The undersigned is concerned about the implications of these facts and these facts have been considered in relation to the instant request for continuance. The request is denied.

IT IS SO ORDERED.

DATE: July 9, 2014

/s/

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