

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015030944

ORDER DENYING REQUEST FOR
CONTINUANCE

Student filed the complaint in this matter on March 20, 2015, and amended it on June 19, 2015. On October 23, 2015, Student filed a request to continue this matter into February 2016. On October 29, 2015, San Mateo Union High School filed a notice of non-opposition. As discussed below, the request to continue 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).) The Office of Administrative Hearings 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 hearing dates and timelines shall proceed as calendared. This matter was originally filed against two school district. Student settled out with one of the

school districts, and amended the complaint as to San Mateo in order to add additional claims. This matter has previously been continued. What becomes clear from the request to continue is that the parties have continued to have disputes over assessments of Student, and placement and services for Student while this matter has been pending. A further continuance is likely to only result in further claims arising between the parties. This is likely to result in further delays of this action proceeding to hearing. Furthermore, Student's overt threat to file another complaint is not persuasive to OAH. This matter has been pending since March 2015 and Student's current request to continue this matter into February of 2016 will ensure that a final decision in this case will be issued more than one year from the date of filing of the original complaint. This goes against the speedy resolution mandate of the Individuals with Disabilities Education Act. The request to continue is denied.

IT IS SO ORDERED.

DATE: October 30, 2015

/s/

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