BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: EDUCATIONAL RIGHTS HOLDER ON BEHALF OF STUDENT, v. SAN LORENZO UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013040589 ORDER DENYING REQUEST FOR CONTINUANCE

On April 15, 2013, the Educational Rights Holder on behalf of Student (Student), filed a request for a due process hearing (complaint) against the San Lorenzo Unified School District (District). On April 16, 2013, Student filed a request to amend the complaint. On April 21, 2013, Student filed a request to continue the dates in this matter. No response was received from District on either the request to continue or the request to amend. On April 23, 2013, the Office of Administrative Hearings (OAH) granted Student's request to amend the complaint, deemed the amended complaint filed and vacated all prior dates in this matter. OAH then issued a new scheduling order which set new dates. The filing of the amended complaint which resulted in OAH vacating all prior dates and issuing new dates, has made Student's April 21, 2013 motion for continuance moot.

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 without prejudice. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Student is instructed to consider the new dates set in this matter. If Student needs a continuance, Student is instructed to contact District to meet and confer on whether the parties can agree to a joint request for continuance. If the parties agree, they may file a joint request for continuance. If the parties disagree, either party may file a new request to continue. Accordingly, Student's April 21, 2013 request for continuance is denied without prejudice.

IT IS SO ORDERED.

Dated: April 25, 2013

/s/

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