

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

REDLANDS UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011010237

ORDER DENYING REQUEST FOR  
CONTINUANCE

On January 27, 2011, Student filed a request for continuance on the ground that the assigned hearing dates conflicted with mediations, a PHC, and IEP team meetings that Student's counsel desired to attend on behalf of other clients. Student requested hearing dates in April of 2011. District filed an opposition on February 1, 2011, in which it demonstrated that the instant due process hearing request had been filed in response to Student filing a compliance complaint with the California Department of Education demanding that District immediately file for a due process hearing. In the compliance complaint, Student took the position that because District had not immediately filed for due process following a June 15, 2010 IEP team meeting, Student's placement and services were presently "in limbo." Student filed a reply to the opposition on February 1, 2011. As discussed below, Student has not demonstrated good cause for a continuance under the circumstances.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332 .) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Here, District has not agreed to the continuance and has demonstrated that it filed its due process hearing request in response to Student filing the compliance complaint with the California Department of Education. Having gone so far as to file a compliance complaint to get the instant hearing on calendar, and having taken the position in the compliance complaint that Student's placement and services are currently "in limbo," it is apparent that it is in Student's interest that a hearing on this matter go forward as soon as possible. Student's counsel has already obtained a delay of the instant hearing by making an objection to service of the due process hearing request that although technically correct, elevated form over

substance and could have been resolved quickly with a simple phone call. More importantly, District is correct that the desire of Student's counsel to represent other parties at voluntary proceedings like mediations, or IEP team meetings that can be rescheduled, does not demonstrate good cause given the urgency of conducting a hearing. This is particularly true under the circumstances where the District has filed for due process in response to Student's compliance complaint and is ready to proceed, Student's program is "in limbo," and Student's counsel has the option of rescheduling other commitments or requesting that the current hearing schedule be adjusted by the hearing ALJ to accommodate any PHC or partial day IEP team meeting that cannot otherwise be rescheduled.

Student's motion for a continuance is denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: February 2, 2011

/s/

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RICHARD T. BREEN  
Presiding Administrative Law Judge (acting)  
Office of Administrative Hearings