

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

SANTA RITA UNION SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011040352

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
MEDIATION, PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING

On April 27, 2011, Parent, on behalf of Student, filed a request to continue the dates in this matter. Parent did not serve the Santa Rita Union School District (District) with Student's request and did not contact District to attempt a meet and confer prior to filing the request to continue. On April 29, 2011, District filed an opposition to Student's request on the grounds that Student's request should not be considered due to the failure to serve District and a continuance would prejudice District due to staff unavailability.

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, the Office of Administrative Hearings (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).)

While District is correct that it was not served with the request, counsel for District was able to obtain a copy from OAH and file a timely opposition. Parent's failure to serve the request, in this particular incident, does not justify striking the request to continue in its entirety as District wants. However, Parent is cautioned that it is Parents' responsibility to ensure that every document filed with OAH is served upon District's counsel. Furthermore, Parent should attempt to engage District's counsel in a meet and confer, regarding any future calendaring issues, prior to filing a request to continue.

OAH has reviewed the request for good cause and the request is granted. No prior continuances have been granted. This case concerns a single issue of whether District properly assessed Student and therefore, Student is not entitled to an independent educational evaluation at public expense. District has not established how continuing this matter would

prejudice District substantively. To the extent that District's staff is unavailable on the specific date requested by Student, that unavailability is taken into consideration and this case is set as follows:

Mediation:	May 25, 2011, at 9:30 AM <sup>1</sup>
Prehearing Conference:	August 10, 2011, at 1:30 PM
Due Process Hearing:	August 18, 2011, at 9:30 AM

IT IS SO ORDERED.

Dated: May 3, 2011

/s/

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BOB VARMA  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> Mediation is voluntary. District previously canceled the mediation in this case, stating that it was not willing to attend mediation. A mediation date is being set, however, either party is free to inform OAH if it does not desire to participate in mediation.