

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LUCIA MAR UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2011040850

ORDER DENYING REQUEST FOR  
CONTINUANCE

On June 2, 2011, the parties filed a joint request to continue the dates in this matter on the grounds that the matter requires more than the currently scheduled one day of hearing, school staff are not available to testify during the summer break and counsel for the parties do not have available dates until October 2011. The matter was filed on April 22, 2011. The parties request an initial continuance of over five months.

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).)

OAH has reviewed the request for good cause and the request is:

Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Here, OAH is inclined to grant a continuance because this is the parties' first request. However, the parties have requested hearing dates that are beyond 90 days from the original date. Summer break for school districts, while it may be a factor considered, does not establish good cause for a continuance. The fact that the matter was scheduled for one day of hearing also does not establish good cause for a continuance as OAH expects matters to proceed day-to-day until completed. Finally, a mere statement that counsel are unavailable for five months from the date of filing, without sworn declarations or some other documentation establishing the unavailability of counsel for such an extended period, also fails to constitute good cause for such a lengthy continuance. The parties may resubmit their

request for a continuance if they choose dates within 90 days from June 16, 2011, the original hearing date. If the parties still desire dates in October 2011, they should submit sworn declarations with facts establishing counsel's unavailability and OAH will consider the request. A substantial showing of good cause will be required for such a lengthy continuance. Finally, the parties are also instructed to propose a date and time for the prehearing conference, consistent with OAH's calendaring guideline.

IT IS SO ORDERED.

Dated: June 2, 2011

/s/

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BOB VARMA  
Administrative Law Judge  
Office of Administrative Hearings