

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DIXIE ELEMENTARY SCHOOL  
DISTRICT.

OAH CASE NO. 2011040921

ORDER GRANTING IN PART AND  
DENYING IN PART REQUEST FOR  
CONTINUANCE AND SETTING  
MEDIATION

On June 7, 2011, the parties filed a joint request to continue the dates in this matter. This case was filed on April 26, 2011. The parties request mediation on June 14, prehearing conference (PHC) on October 12 and due process hearing (hearing) on October 17 through 20, 2011. The grounds for such a lengthy continuance request are that counsel is unavailable due to an out-of-state presentation the week of September 26, 2011, and the parties do not want the hearing broken up by the Columbus Day holiday during the week of October 10, 2011.<sup>1</sup>

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:

Granted in part. The mediation in this matter is set as follows:

Mediation: June 14, 2011, at 9:30 AM

Denied in part. All PHC and hearing dates are confirmed and shall proceed as calendared. Here, OAH is inclined to grant a continuance of the PHC and hearing,

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<sup>1</sup> Columbus Day is no longer a state holiday and OAH is able to hear matters on that day.

however, the dates requested by the parties would place the hearing approximately six months from the date of filing of this case. The grounds currently provided by the parties do not constitute good cause for such a lengthy continuance. The parties describe their unavailability beginning the week of September 26, 2011. The date of September 26, 2011, is already 96 days out from the initial hearing date of June 21, 2011. The parties fail to provide any explanation of why they are unavailable between June 21 and September 19, 2011, the 90-day period at issue. The parties may resubmit their request for a continuance of the PHC and hearing with grounds of why they are unavailable between June 21 and September 19, 2011. The matter is calendared as follows:

1. The prehearing conference remains calendared for June 13, 2011, at 10:00 a.m.
2. The mediation shall take place on June 14, 2011, at 9:30 a.m.
3. The due process hearing remains calendared for June 21, 2011, at 9:30 a.m.

IT IS SO ORDERED.

Dated: June 7, 2011

/s/

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BOB VARMA  
Administrative Law Judge  
Office of Administrative Hearings