

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAUSALITO-MARIN CITY SCHOOL
DISTRICT.

OAH CASE NO. 2011050670

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

On June 29, 2011, Student and Sausalito-Marín City School District (District), filed separate requests to continue the dates in this matter. While the parties jointly request July 21, 2011, for mediation, they cannot agree upon continued prehearing conference (PHC) and due process hearing dates. Student requests the hearing be continued to August 2011. District requests the hearing be continued to mid-September or October, 2011, and a PHC be set accordingly.

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).)

District sets forth a multitude of reasons for its continuance request, all of which focus upon the unavailability of District staff and counsel. While the unavailability of a witness due to prepaid vacations or maternity leave or other such grounds may, on a case-by-case basis, establish good cause, the unavailability of District staff due to summer recess is not good cause for a continuance. Were summer recess good cause for a continuance, all due process proceedings would be suspended during summer. This is clearly not in line with the mandate for a speedy resolution established by the Individuals with Disabilities Education Act.

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

Granted. All dates are vacated. This matter will be set as follows:

Mediation: July 21, 2011, at 9:30 AM
Prehearing Conference: August 29, 2011, at 10:00 AM
Due Process Hearing: September 6 – 8, 2011, starting at 1:30 PM on
September 6, 2011.

IT IS SO ORDERED.

Dated: June 30, 2011

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings