

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011050850

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

On May 20, 2011, Parents on behalf of Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Mediation and Due Process Hearing that named the Saddleback Unified School District (District).

On May 23, 2011, OAH issued an Initial Scheduling Order in the case setting a prehearing conference for July 6, 2011, and a due process hearing for July 14, 2011.

On June 29, 2011, counsel for the District filed with OAH a Motion to Continue Prehearing Conference and Due Process Hearing, with supporting declarations. The motion requests a continuance of the initially scheduled hearing dates into September 2011, based upon the unavailability for trial of three witnesses: Dr. Jeffrey Owen, Kathy Purcell and Sean Boulton.

On July 5, 2011, counsel for Student filed with OAH an Opposition to Motion to Continue, contending that the three witnesses are not unavailable because they are simply on scheduled vacations, and requesting that, if a continuance is granted, OAH continue the matter into late August 2011. It is noted that, in her Prehearing Conference Statement, Student has listed as potential witnesses Dr. Owen, Ms. Purcell and Mr. Boulton. Thus, denying the District's motion for continuance would mean that the matter would be tried piecemeal which is a policy that OAH attempts to avoid.

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 .)

OAH has reviewed the District's Motion for Continuance, and finds that the unavailability of the above-named witnesses is good cause for granting the motion. Accordingly, the currently scheduled hearing dates are vacated. This matter will be set as follows:

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| Mediation: | To be determined by the parties. |
| Trial Setting Conference: | N/A |
| Prehearing Conference: | 09/07/2011, at 1:30 p.m. |
| Due Process Hearing: | 09/13/2011; 09/14/2011; 09/15/2011; 09/20/2011; 09/21/2011; 09/22/2011. |

IT IS SO ORDERED.

Dated: July 05, 2011

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings