

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2011060521

ORDER CONTINUING HEARING  
AND SETTING DUE PROCESS  
HEARING

On September 6, 2011, Student notified the Office of Administrative Hearings (OAH) that the parties had a tentative agreement, not yet signed, and subject to approval by the San Francisco Unified School District's (District) Board. Student filed a conditional withdrawal of this matter, withdrawing without prejudice until District's Board approved the matter and then converting it to a withdrawal with prejudice. The matter is set for hearing on September 7, 2011.

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.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

OAH has reviewed Student's conditional withdrawal. Because the parties do not have a signed settlement agreement and they desire to have OAH retain jurisdiction of this matter while they finalize their agreement, and obtain Board approval, OAH cannot vacate the hearing date. However, the parties have presented sufficient grounds to continue the September 7, 2011 date of hearing. Accordingly, September 7, 2011 is vacated.

This matter will proceed to hearing on September 8, 2011, absent the parties providing proof to OAH of a signed settlement agreement and anticipated date of Board

approval. Upon such proof being presented, OAH will vacate all hearing dates and set a status conference after the anticipated date of Board approval.<sup>1</sup>

IT IS SO ORDERED.

Dated: September 6, 2011

/s/

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BOB VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> Student may withdraw this matter with prejudice at any time. Or, the parties may submit a joint request for a continuance by September 7, 2011, of a short duration, providing supporting declarations establishing that they do indeed have a tentative agreement that is being reduced to a final agreement.