BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. VISTA UNIFIED SCHOOL DISTRICT AND SIATECH.	OAH CASE NO. 2011061131 ORDER DENYING SIATECH'S REQUEST FOR CONTINUANCE

On January 17, 2012, SiaTech filed a request to continue the dates in this matter, on the grounds that SiaTech's counsel, Daniel Shinoff, is unavailable on the currently scheduled due process hearing dates of January 24-26, 2012. Specifically, Mr. Shinoff is scheduled to begin a hearing in a "previously scheduled" case filed in San Diego County Superior Court, which is expected to last 8-14 weeks. In addition, the motion advised that Student's counsel, Tania Whiteleather, will be unavailable on January 24 and 25, 2012, as she is scheduled for hearing in another OAH matter. There have been two previous continuances in this matter since the filing of Student's June 24, 2011 complaint. Specifically, OAH issued an order of continuance on August 1, 2011, and again on September 28, 2011, at the request of the parties. At the PHC in this matter, which was held on January 17, 2012, Student and District stated their non-opposition to SiaTech's motion.

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 for good cause. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 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 the request for good cause and the request is denied. SiaTech failed to establish good cause, as the parties were served with OAH's order of continuance on September 28, 2011, nearly four months ago, advising that this matter would proceed to hearing on January 24-26, 2011 on dates selected by the parties. SiaTech failed to establish why it failed to advise OAH of its counsel's "previously scheduled" matter in a timely fashion. In addition, statutory authority contemplates speedy resolution of all due process matters. Consequently, Student's complaint, which was filed nearly seven months ago, is ripe for hearing and a decision. As to Ms. Whiteleather's conflict, it was not the result of OAH actions, but her own, as she selected the hearing dates in this and the other matter that she now has a conflict with. However, given Ms. Whiteleather's apparent conflict, OAH will

order her other scheduled due process hearing (i.e., OAH No. 2011100803) to be dark on January 24, 2012, so that this matter will proceed as scheduled.

IT IS SO ORDERED.

Dated: January 18, 2012

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings