

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011090039

v.

CULVER CITY UNIFIED SCHOOL
DISTRICT,

CULVER CITY UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2011060075

v.

PARENT ON BEHALF OF STUDENT.

ORDER DENYING REQUEST FOR
CONTINUANCE

On September 13, 2011, Parent, on behalf of Student, filed a request to continue on the ground that the Culver City Unified School District (District) had failed to provide Parent with Student's educational records. On September 19, 2011, the Office of Administrative Hearings (OAH) denied Student's request to continue without prejudice. On September 28, 2011, Student filed a motion for reconsideration, wherein Student raised an additional ground for continuance, by asserting that District had outstanding assessments that needed to be completed prior to this matter proceeding to a due process hearing. On September 29, 2011, OAH ruled on a multitude of pending motions, but deferred ruling on the request to continue on the ground of pending assessments because District had not filed a reply to the motion with respect to the pending assessments claim.

On September 29, 2011, Student filed a further declaration by Parent regarding the pending motion to continue, amongst other matters also addressed by the declaration. On September 30, 2011, District filed an opposition to Student's request to continue due to pending assessments.¹ On October 3, 2011, Student filed a reply to District's opposition. This order concerns only the request for continuance on the ground of pending assessments.

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.

¹ District's counsel's facsimile header states the date as September 12, 2011. This is incorrect and the pleading was received by OAH on September 30, 2011.

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 the request for good cause and the request is:

Denied. All hearing dates and timelines shall proceed as calendared. Student contends that District has scheduled assessments during the month of October 2011 and judicial economy would be promoted by allowing District to complete its assessments, and share any reports prior to a due process hearing. District contends that while there are assessments scheduled, the assessments have previously been prevented by Parent. In other words, while assessments or observations may be calendared, District expects Parent to prevent them from going forward. This assertion is consistent with the factual allegations contained in District's complaint in this matter, that Parent has prevented it from conducting previously agreed upon assessments. Parent denies these allegations and states that it is District own failures that have prevented the assessments from being completed.

Based on these contradictory statements by the parties, the issue of who is at fault for the incomplete assessments is a matter appropriate for an evidentiary hearing. Otherwise this current pattern of Parent asserting that District refuses to complete its assessments and District asserting that Parent keeps preventing it from completing the assessments may continue indefinitely. Accordingly, the matter should be addressed in the due process hearing and Student's motion to continue is denied.

IT IS SO ORDERED.

Dated: October 3, 2011

/s/

BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings