

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011091066

ORDER DENYING WITHOUT
PREJUDICE REQUEST FOR SPECIFIC
ADDITIONAL DAYS OF HEARING

On February 21, 2012, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings (OAH), naming Santa Monica-Malibu Unified School District (District). The matter is set for a prehearing conference (PHC) on April 9, 2012 and for a due process hearing on April 12, 2012.

On February 23, 2012, Student filed a motion for the addition of eight more days of hearing, April 23 – 26, 29, 2012 and May 1 – 3, 2012. Student's motion includes a declaration from Student's counsel, Mandy Favaloro, regarding communications with District's counsel, Adam Newman, as to the scheduling of additional hearing dates and the District's availability. On October 28, 2012, the District submitted a response that opposed Student's motion and request that OAH set a status conference.¹

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).)

Student is correct that this matter cannot be heard in one day and additional hearing days are required. Student's counsel met and conferred with the District's counsel for

¹ The District has a pending motion to consolidate this matter and the complaint it filed on February 24, 2012, OAH Case No. 2012021053, which will be ruled upon in a separate order.

agreeable additional hearing dates, and the parties are not in agreement as to additional days of hearing.² Accordingly, the appropriate venue to determine the additional hearing days, in addition to April 12, 2012, is at the April 9, 2012 PHC, unless the parties can mutually agree upon additional hearing dates. Therefore, Student's motion for additional days is denied without prejudice, and may be raised at the April 9, 2012 PHC.

IT IS SO ORDERED.

Dated: March 5, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

² Absent a motion to continue the single calendared date of hearing, it is expected that cases will proceed on a day-to-day basis until completed.