

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

RIALTO UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012050064

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

On April 24, 2012, the Rialto Unified School District (District), through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (District Complaint) that named Student. OAH assigned the District Complaint case number 2012050064. On May 15, 2012, Student, through his advocate, filed with OAH a Request for Due Process Hearing (Student Complaint) that named the District. OAH assigned the Student Complaint case number 2012050635. On May 22, 2012, OAH ordered the consolidation of the District and Student Complaints. On August 8, 2012, Student's advocate filed with OAH a withdrawal of the Student Complaint. Currently pending in the District Complaint is a due process hearing set for August 13 through 17, 2012.

On August 10, 2012, recently retained counsel for Student filed with OAH an Emergency Request for Continuance, supported by declarations of counsel and Student's father. The request seeks a short continuance of the pending due process hearing. Thus far, counsel for the District has not filed with OAH a response to the Emergency Request for Continuance.

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) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have

stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is: Granted. All pending hearing dates are vacated. A brief continuance is warranted in order to ensure that Student receives proper representation as Student's advocate did nothing to prepare for the due process hearing in the case involving the District Complaint. Accordingly, this matter will be set as follows:

Mediation:	To be determined by the parties.
Prehearing Conference:	09/10/2012, at 1:30 p.m.
Due Process Hearing:	09/17/2012 at 1:30 p.m.; 09/18/2012; 09/19/2012; 09/20/2012, at 9:30 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: August 10, 2012

/s/

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