

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

HACIENDA LA PUENTE UNIFIED SCHOOL  
DISTRICT

OAH CASE NO. 2009040154

vs.

PARENT on behalf of STUDENT.

PARENT on behalf of STUDENT

OAH CASE NO. 2008120092

vs.

HACIENDA LA PUENTE UNIFIED SCHOOL  
DISTRICT.

ORDER DENYING STUDENT'S REQUEST  
FOR CONTINUANCE

Student filed his due process complaint (complaint) in OAH No. 2008120092 on November 29, 2008. The Office of Administrative Hearings (OAH) granted the parties' joint motion for continuance on January 7, 2009. Student thereafter filed a motion of continuance, which was opposed by the District. OAH granted Student's motion on February 17, 2009. Student filed a subsequent motion for continuance, also opposed by the District, which OAH granted on March 9, 2009.

On April 2, 2009, District filed its complaint in OAH No. 2009040154, concurrently filing a motion to consolidate that case with Student's case in 2008120092. OAH granted the District's motion to consolidate on April 10, 2009, setting a prehearing conference (PHC) in the consolidated matters for April 20, 2009, and a due process hearing to begin on April 28, 2009. On April 20, 2009, OAH attempted to convene the PHC. Neither Student's advocate nor his parents could be located. OAH trailed the PHC to April 21, 2009. OAH was again unable to locate Student's advocate or his parents. The PHC proceeded without a representative for Student present. On April 27, 2009, the day before the hearing was scheduled to begin Student filed a motion to continue the hearing in the consolidated cases. OAH granted Student's motion and set a telephonic trial setting conference (TSC) for May 1, 2009. All parties appeared at the TSC. Based upon discussion with the parties, OAH rescheduled the PHC for May 8, 2009, and the hearing for May 12 – 15, 2009.

Student filed yet another motion for continuance in these consolidated matters on May 7, 2009. The District filed an opposition to Student's motion, also on May 7, 2009. Student's motion states that he needs a continuance for both the PHC and the hearing because he contends judicial error occurred while his advocate was on medical leave and

because his advocate has underestimated the workload involved with this case. Student also states that he intends to file another due process request as justification for continuing the instant consolidated proceedings.

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).) 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).)

Student's motion for continuance fails to present good cause for yet another continuance in this case. Student was represented at the last TSC held on May 1, 2009, and the dates for the hearing were set with input from his representative. If new issues have arisen between Student and the District, as contended in his motion for continuance, Student may file another due process request if he believes it appropriate. Student's advocate has had significant time to prepare for the hearing in this matter, given that Student's case was filed over five months ago, and given that the issues the District raises in its complaint are similar to those raised by Student in his complaint.

Having failed to show good cause, Student's request for continuance and for the setting of another TSC is DENIED. The PHC will be heard as scheduled on May 8, 2009, at 10:00 a.m. and the hearing will begin as scheduled on May 12, 2009.

IT IS SO ORDERED.

Dated: May 07, 2009

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings