

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010090432

ORDER DENYING REQUEST TO  
TAKE HEARING "OFF CALENDAR"

On March 14, 2011, the parties filed a stipulated request to take the hearing dates "off calendar." The parties are not requesting a continuance and provided no date certain, or any indication of when, if ever, they will proceed to hearing. The request is premised on Student's desire to appeal an adverse ruling in the United States District Court that dismissed Student's action there on the ground of failure to exhaust administrative remedies.

The IDEA does not contemplate taking matters "off calendar" indefinitely after a Student has requested a due process hearing. To the contrary, the IDEA contemplates that hearings will be completed and a decision rendered within 45 days of filing, with continuances granted only for good cause. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f).) Consistent with the above, OAH will not take matters "off calendar" as requested by the parties. Moreover, it is not good cause for further continuances before OAH that Student has chosen to pursue litigation in multiple forums and/or would like to get clarification of the exhaustion rule that applies in federal courts. Accordingly, the request to take the hearing in the above matter "off calendar" is DENIED. The matter will proceed to hearing as scheduled and no further continuances will be granted.

IT IS SO ORDERED.

Dated: March 15, 2011

/s/

RICHARD T. BREEN  
Presiding Administrative Law Judge (acting)  
Office of Administrative Hearings