

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SEQUOIA UNION HIGH SCHOOL DISTRICT,	OAH CASE NO. 2010100554
SEQUOIA UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2010071307 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING DUE PROCESS HEARING

On March 11, 2011, Eugene Whitlock, attorney for the Sequoia Union High School District (District), filed a motion to continue the due process hearing in this matter on the grounds that counsel was unavailable due to an ongoing civil court trial matter. On March 14, 2011, a telephonic status conference (TSC) was held before the Office of Administrative Hearings (OAH), by Administrative Law Judge (ALJ) Bob N. Varma. Mr. Whitlock appeared on behalf of District. David H. Tollner, attorney at law, appeared on behalf of Student. Student does not oppose District's request to continue.

This matter was previously continued to March 14 through 17, 2011. During the TSC, the procedural history of this case was set out and discussed. The prior continuances and orders stating that unavailability of counsel would not constitute good cause were discussed by the undersigned. The issue of counsel for both parties directly calling the ALJ assigned to the hearing in this matter, on the ALJ's cellular phone, on March 14, 2011, in violation of the March 3, 2011 order, was also discussed.¹

¹ OAH has considered issuing an Order to Show Cause as to why both parties should not be sanctioned for directly violating a prior OAH order. At this time, OAH will not issue the Order to Show Cause. However, the parties are cautioned that further disobedience of an OAH order will result in an Order to Show Cause.

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).)

OAH has reviewed the request for good cause and the request is granted as follows:

1. All dates are vacated.
2. This matter shall proceed to due process hearing on April 4 through 7, and 13 through 14, 2011. If OAH is no longer required to have furloughs in April 2011, the hearing shall also proceed on April 8, 2011.
3. The hearing on April 4, 2011, shall begin at 9:30 A.M.
4. No further continuances shall be allowed. These dates are being set with knowledge that District's counsel may have a civil trial during the week of April 11, 2011. Accordingly, District is strongly advised to have another counsel prepared to represent it in the hearing should Mr. Whitlock become unavailable. Counsel's unavailability will not be good cause for a continuance.
5. No additional hearing days will be allowed in this matter.

Dated: March 15, 2011

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings