

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NORWALK-LA MIRADA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2010100752

ORDER DENYING REQUEST FOR
CONTINUANCE

On May 16, 2011, District filed a request for a continuance of the hearing in this matter. District's stated reason is that Student's parents delayed in consenting to assessments that District thinks are necessary. District argues that the assessments are necessary for hearing. Student opposed the continuance request on May 18, 2011. The request is denied.

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); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); see also 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 denied. The issues in Student's amended complaint are primarily addressed to the provision of a FAPE prior to October 13, 2010, the date the original complaint was filed. It is not good cause for a continuance that District wants to conduct assessments now, seven months after the first complaint was filed, when the question of whether District offered Student a FAPE up until that time will be decided based on whether District's offer was reasonable at the time, not in hindsight. (*Adams v. State of Oregon* (9th Cir. 1999) 195 F.3d 1141, 1149.) All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: May 20, 2011

/s/

RICHARD T. BREEN

Presiding Administrative Law Judge (acting)
Office of Administrative Hearings