

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

WEST SONOMA COUNTY UNION HIGH
SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2010110621

ORDER DENYING REQUEST FOR
CONTINUANCE, VACATING
MEDIATION AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On December 21, 2010, Student filed a request to continue the mediation date of January 4, 2011, in this matter on the grounds that Parents' schedule required attendance of other meetings concerning Student. On December 22, 2011, the West Sonoma County Union High School District (District) filed an opposition to Student's motion and requested that the Office of Administrative Hearing (OAH) maintain the January 4, 2011 mediation date on calendar. On December 23, 2010, Student filed a reply to District's opposition. Within the reply, Student requests that, in the alternative, all dates in this matter be continued. OAH did not receive a response from District to Student's alternative request to continue all dates.

APPLICABLE LAW AND DISCUSSION

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).)

Here, Parents are unavailable for mediation on January 4, 2011, and have requested that mediation be held on January 19, 2011. District is unavailable for mediation on January 19, 2011, and insists that Parents be required to attend mediation on January 4, 2011, because they previously agreed to the date. What the parties fail to acknowledge is that mediation is voluntary. (20 U.S.C. § 1415(e)(2)(A)(i).) OAH cannot hold a mediation or order a party to attend mediation, if the parties do not mutually agree to mediation. Accordingly, Student's

motion to continue the January 4, 2011 mediation is denied. However, because Parents cannot attend the mediation, the January 4, 2011 mediation is vacated. If the parties mutually agree on a date for mediation in the future, they may contact OAH for assignment of a mediator.

In the alternative, Student has requested that all dates in this case be vacated and reset on the grounds that Student desires to mediate the matter. However, because the parties do not agree on a new mediation date and mediation is voluntary, Student has not established good cause to continue all dates in this matter.

ORDER

1. Student's request to continue the January 4, 2011 mediation is denied.
2. The mediation date of January 4, 2011, is vacated.
3. Student's alternative motion to continue all dates in this matter is denied.
4. The prehearing conference shall take place as scheduled on January 31, 2011, at 10:00 A.M.
5. The due process hearing shall take place as scheduled on February 7 – 8, 2011, starting at 1:30 P.M. on February 7, 2011.

Dated: December 29, 2010

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings