

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

WALNUT CREEK ELEMENTARY
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011040248

ORDER GRANTING IN PART
REQUEST FOR CONTINUANCE AND
SETTING MED/PHC/HRG

On April 22, 2011, Parent of Student filed a request to continue the dates in this matter to allow time for mediation. Parent cancelled the first mediation scheduled for April 20, 2011. On April 22, 2011, Toby Hopstone, Ed.D., Director of Special Services, Walnut Creek Elementary School District (District), filed an opposition to the request based upon the fact that Student moved to District in January and District has had no opportunity to assess Student. Delaying the hearing will delay the possibility of assessments into the summer and when District staff is largely unavailable.

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 in Part. All dates are vacated. There have been no continuances in this matter and setting a short continuance to attempt to settle the matter in mediation is in the best interest of the parties as Student did not establish why this matter should be delayed until mid-June. This matter will be set as follows:

Mediation:	May 3, 2011 at 9:30 AM
Prehearing Conference:	May 11, 2011 at 10:00 AM
Due Process Hearing:	May 17, 2011 at 9:30 AM

Dated: April 22, 2011

/s/

MICHAEL G. BARTH
Administrative Law Judge
Office of Administrative Hearings