

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011041089

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PHC/HRG

On September 2, 2011, the parties filed a stipulated request for a continuance. The request did not include proposed dates. Both parties erroneously assumed that they could provide agreed-upon suggested dates at their leisure, which is inconsistent with longstanding OAH procedure. The only reason given was that Student intended to file an amended complaint with the agreement of District. After repeated reminders from OAH staff, Student filed a statement of agreed-upon dates on September 7, 2011. No amended complaint was ever filed. Although not mentioned as a ground for a continuance, District's attorney first filed a notice of representation on September 2, 2011.

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).) 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. All dates are vacated. However, the request for a continuance is being granted solely on the ground of District only recently retaining counsel. To the extent the request is premised on filing an amended complaint, it is denied, as no proposed amended complaint has been filed, and even so, a motion to amend being granted would result in all timelines being reset. If Student seeks to amend the complaint, Student must file a separate motion to amend that includes a proposed amended complaint. Nothing in this order shall be construed as a ruling on a motion to amend the complaint, and the continuance being granted is limited to the complaint Student filed on April 29, 2011. Because the parties have had ample continuances, no further continuances are contemplated for any reason. The matter will be set as follows:

Mediation: October 27, 2011 at 9:00 AM
Prehearing Conference: November 7, 2011 at 1:30 PM
Due Process Hearing: November 14-17, 21, 2011 at 1:30 PM on the 14th
and 21st and 9:00 AM all other dates.

IT IS SO ORDERED.

Dated: September 07, 2011

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings