

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

SAN MATEO-FOSTER CITY SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011041091

ORDER GRANTING REQUEST FOR  
CONTINUANCE, AND SETTING  
FURTHER PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING

On July 20, 2011, the San Mateo-Foster City School District (District) filed a request to continue the due process hearing, in this matter, currently set to begin on July 26, 2011, on the ground that it could no longer confirm if Student still resided within District's geographic boundaries, and therefore, a due process hearing may not be necessary. The Office of Administrative Hearings (OAH) attempted to contact Parent on July 22 and 25, 2011, to see if Student would oppose the continuance request. OAH was unable to speak to the Parent and a message was left. On July 22, 2011, Parent left OAH a message which is discussed below.

This matter was filed by District on April 29, 2011. On May 18, 2011, a prehearing conference (PHC) was held. Parent failed to appear at the PHC. The matter was continued and mediation scheduled for May 31, 2011. Parent canceled the mediation. District has submitted a sworn declaration from Ms. Petrice Larson, who is employed by District's counsel. Ms. Larson states that on July 13, 2011, she spoke to Parent in an attempt to coordinate for the upcoming due process hearing and to see if Parent wished to participate in mediation. Ms. Larson was informed by Parent that the family had moved outside of the District's jurisdiction, however, Parent refused to tell Ms. Larson where the family had relocated. District now moves for a brief continuance in order to determine if Student has in fact moved outside of District's jurisdiction, which may affect whether District will prosecute this matter further.

With respect to Student's position on this matter, in the July 22, 2011 message from Parent, she states that the family has in fact moved outside of the jurisdictional boundaries of District. Parent also states that she does not see a need for a hearing and is not pursuing the dispute with District further, now that the family has moved. Parent asserts that she has previously informed District of this through Student's speech and language therapist.

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:

While Parent's phone message to OAH is not a sworn statement, it does corroborate Ms. Larson's declaration that Student's family may have left District's jurisdiction. Accordingly, a short continuance for District to consider whether it wishes to prosecute this matter further is warranted and the motion is granted. All dates are vacated. This matter will be set as follows:

Further Prehearing Conference:	August 17, 2011, at 1:30 PM
Due Process Hearing:	August 23 – 25, 2011, at 9:30 AM

IT IS SO ORDERED.

Dated: July 26, 2011

/s/

---

BOB VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings