

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MILL VALLEY ELEMENTARY SCHOOL
DISTRICT.

OAH CASE NO. 2011050724

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

On August 15, 2011, the parties filed a request to continue the dates in this matter on the grounds that the Mill Valley Elementary School District (District) is awaiting the arrival of its new special education director. Parties further assert that they desire time to mediate this matter.

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, the Office of Administrative Hearings (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 OAH is concerned regarding the parties' request. The parties do not provide any information regarding why the matter must sit until the new special education director takes over for District, or why it will take the new special education director until October 2011 to be able to prosecute this matter. Further, given that the parties have canceled mediation twice and do not suggest a new date for mediation, their position that this matter should be continued because the parties desire to participate in mediation is minimally convincing. Finally, the fact that the parties waited until the morning of the prehearing conference to make a request to continue raises concerns that the parties are not prosecuting this matter in earnest. However, because the parties request mediation, a continuance is:

Granted. All dates are vacated. No further continuances will be granted without a substantial showing of good cause. This matter will be set as follows:

Mediation: August 31, 2011, at 9:30 AM
Prehearing Conference: September 14, 2011, at 10:00 AM
Due Process Hearing: September 20 – 22, 2011 at 9:30 AM

IT IS SO ORDERED.

Dated: August 15, 2011

/s/

BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings