

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  SOUTH PASADENA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011060001
SOUTH PASADENA UNIFIED SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH CASE NO.  ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PHC/HRG

On July 19, 2011, District filed a motion to continue this matter on the ground that District personnel were unavailable, more than one hearing day was required, and that as of the date of the motion, District's counsel had commitments that would require the hearing to proceed in October. District provided specific evidence showing that unavailability of personnel and counsel, and provided documentation of its extensive efforts to meet and confer with Student's parents about finding mutually agreed dates. District accurately notes that at the time the matters were consolidated, Student did not oppose District's continuance request, however, District's request had not been granted because the parties did not meet and confer regarding dates. Student, through her Parents, opposed the motion on July 21, 2011, stating a preference to extend the single day currently set for hearing, or otherwise hold the hearing during the one week in September that District's counsel might have availability. As discussed below, District's motion is granted for good cause.

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. District correctly points out that Student did not oppose a continuance at the time of consolidation. At present, the consolidated matters are only set for one day of hearing. OAH requires parties who require more than one day of hearing, like in this consolidated matter, to request mutually agreed dates, as the parties were instructed. District has presented evidence of its extensive efforts to obtain mutually agreed dates, and has documented the unavailability of District personnel and District counsel. Although Parents are eager to go to hearing, Parents have not demonstrated how the brief delay contemplated by District will impact Student's right to due process, particularly when, as District points out, not all District witnesses required by Student are available in August. Further, Student's complaint primarily seeks retrospective relief for past school years, whereas District's complaint seeks to exit Student from special education. Under these circumstances, District has demonstrated good cause for a continuance. Although District counsel may be available in September, Student did not demonstrate that her Parents were unavailable on the dates suggested by District. This matter will be set as follows:

Mediation:	The parties may request a voluntary mediation on a mutually agreed date by contacting OAH.
Prehearing Conference:	October 12, 2011 at 10:00 AM [NOTE: OAH is closed for training October 17-21, 2011.]
Due Process Hearing:	October 24-27, 2010 at 1:30 PM first day, 9:30 AM after. Note that OAH does not calendar on Fridays, as requested. Additional hearing days may be set if needed by the hearing ALJ.

IT IS SO ORDERED.

Dated: July 22, 2011

/s/

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