

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO-FOSTER CITY SCHOOL
DISTRICT.

OAH CASE NO. 2011060770

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

On September 26, 2011, the parties submitted a joint request for continuance on the grounds that counsel for the parties had conflicts with the currently set dates and witness unavailability. This matter is set for a prehearing conference (PHC) at 10:00 a.m. on September 26, 2011, and due process hearing on October 11 through 13, 2011. The parties filed their joint request approximately 45 minutes prior to the PHC. The parties did not file PHC statements.

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 the request is:

Granted in part. This matter was filed on June 16, 2011. On August 2, 2011, the parties were granted a continuance that set the current hearing dates. On August 25, 2011, the parties participated in mediation, wherein they informed the mediator to maintain the current hearing dates. The parties now request a hearing in January 2012, approximately seven months from the date of filing. The parties assert that their counsel are unavailable, but provide no information of why they are unavailable until January 2012. The parties assert that witnesses are unavailable, but provide no information as to which witnesses, their relevance to the issues and why they are unavailable. While OAH would consider granting a short continuance, the parties have not provided sufficient information to justify a continuance and OAH is unwilling to continue the matter into January 2012. Accordingly,

the PHC is continued to provide the parties with sufficient time to file PHC statements and to file a motion to continue with sufficient facts and declarations to substantiate the request, if they choose to request another continuance. This matter will be set as follows:

Prehearing Conference: October 5, 2011, at 10:00 AM
Due Process Hearing: October 11 – 13, at 9:30 AM

IT IS SO ORDERED.

Dated: September 26, 2011

/s/

BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings