

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2011070073
v.	
VENTURA UNIFIED SCHOOL DISTRICT,	
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VENTURA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011040719
v.	
PARENT ON BEHALF OF STUDENT.	ORDER DENYING REQUEST FOR CONTINUANCE

On August 19, 2011, the parties filed a stipulated request for a continuance. The reasons stated were a need for more than one hearing date and that the parties had been unable to resolve the matter, but wanted to keep negotiating.

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 denied. The parties are requesting a continuance of nearly four months, to hearing dates in mid-December. The motion for a continuance, filed one business day before the prehearing conference, fails to provide any facts demonstrating good cause for such a lengthy continuance.

First, to the extent the parties want additional time to negotiate, that is not good cause. District's case was filed in April, and multiple continuances were granted prior to consolidation. The parties have had ample to time to settle District's case and Student's case, and have been unable to do so to date, despite attending mediation. Nothing is stopping the parties from continuing to negotiate prior to, or during, the hearing.

Further, the matter is ready for hearing. Both parties filed prehearing conference statements in District's case and Student has filed a complete prehearing conference statement in the consolidated cases. The District's failure to file a new prehearing conference statement in the consolidated cases is not grounds for a continuance, as District and its attorneys are well aware of OAH requirements for prehearing conferences.

Finally, to the extent the parties need more than one day for hearing, that is not good cause for a four month continuance. The hearing ALJ has the discretion to set additional hearing days at the prehearing conference and the hearing dates do not need to be contiguous. The continuance request sought three and a half days for hearing, which presumably is an accurate reflection of the time in which both parties can complete the hearing in this case. Accordingly, the parties shall be prepared to discuss at the PHC their mutual availability for the three additional days they need to complete the hearing.

IT IS SO ORDERED.

Dated: August 19, 2011

/s/

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