

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011080980

ORDER DENYING REQUEST FOR
CONTINUANCE

On October 11, 2011, Student filed a request to continue the dates in this matter on the grounds that the parties were awaiting a ruling from the United States District Court, Northern District of California, regarding Student's appeal of a denial of stay put. On October 12, 2011, the San Francisco Unified School District (District) filed an opposition to Student's request, asserting that a ruling on stay put has no bearing on the issues set for hearing. On October 12, 2011, Student filed a reply to District's opposition.

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:

Denied. On September 14, 2011, OAH issued an order denying Student's request for stay put. On September 15, 2011, Student filed a motion for reconsideration of the denial. On September 16, 2011, OAH denied the request for reconsideration. On September 30, 2011, Student filed an appeal of OAH's denial of Student's request for stay put with the federal court.

Student asserts that the proceedings in this case should be delayed and continued until Student has received a ruling from the federal court on stay put. Student contends that if the due process hearing is not continued, Parents take a financial risk in moving forward with the due process hearing without having an order granting stay put at

public expense and maintaining Student in his current private nonpublic school placement. Student provides no legal authority for such a principle. Furthermore, the issues for hearing concern whether Student was offered a free appropriate public education for the 2011-2012 school year and a ruling on stay put from the federal court will not affect the issues for hearing. The OAH order cited by Student in *Student v. Long Beach Unified School District* (January 18, 2011) Cal.Offc.Admin.Hrngs. Case No. 2010090432, is not persuasive. The order therein, granting a continuance because the parties were awaiting a federal court ruling, is not precedent and does not control. Furthermore, the request was a joint request and the order fails to state whether the federal court's ruling would have an impact on the issues for hearing in that matter. Here, the federal court's ruling will not impact the issues for hearing. Accordingly, Student's request to continue is denied. The All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: October 17, 2011

/s/

BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings