

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

WHITTIER CITY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011090143

ORDER DENYING REQUEST FOR  
CONTINUANCE

On October 20, 2011, Student filed a request for a continuance that contained an email from an attorney to Student's parents. The email stated that the attorney would only represent Student if: 1) a continuance was obtained to unspecified dates in February of 2012, and 2) mediation was scheduled. The attorney was clear that she would not represent Student for purposes of obtaining a continuance or for the October 26, 2011 prehearing conference. On October 21, 2011, Student filed a document with OAH that indicated Student's parents had attempted to call District's counsel to discuss agreeing to a continuance. No response was received from District.

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 evidence provided by Student shows that the attorney did not agree to represent Student and was not currently available. The mere possibility that Student could obtain the services of a particular attorney far in the future if the attorney's conditions were met is not good cause for a continuance. This is particularly true when mediation is voluntary, and District has already cancelled mediation in this matter. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: October 25, 2011

/s/

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RICHARD T. BREEN

Presiding Administrative Law Judge  
Office of Administrative Hearings