

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CLOVIS UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011100854

ORDER UNEXPEDITING CASE AND  
GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
MEDIATION, PREHEARING  
CONFERENCE AND HEARING  
DATES

On November 22, 2011, the Office of Administrative Hearings (OAH) discovered that the seventh issue in the request for due process hearing (complaint) filed by Student on October 21, 2011, concerned a manifestation determination and threatened expulsion, which required that the matter be expedited as to that issue. Accordingly, OAH issued a new scheduling order with both expedited and unexpedited dates. On November 23, 2011, Student filed a notice of withdrawal of that issue. Further, on November 23, 2011, the parties filed a joint request to continue the unexpedited dates.

APPLICABLE LAW

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination conducted by the district, may request and is entitled to receive an expedited due process hearing. (34 C.F.R. § 300.532(a) (2006).) The procedural right that affords the parties an expedited due process hearing is mandatory and does not allow OAH to make exceptions. (34 C.F.R. § 300.532(c)(2).) In such event, “(T)he [state education agency] SEA or [local education agency] LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed.” (34 C.F.R. § 300.532(c)(2) (2006).) In California, OAH is the hearing office that assumes this responsibility for the California Department of Education. (Ed. Code, § 56504.5, subd. (a).)

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, 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).)

### DISCUSSION AND ORDER

Because Student has withdrawn the seventh issue in his complaint, there no longer is a need for expedited dates for mediation, prehearing conference and due process hearing and all expedited dates are vacated. .

OAH has also reviewed the request for continuance for good cause. This is the first request for continuance filed in this matter and the request is:

Granted. All dates are vacated. This matter will be set as follows:

|                        |  |
|------------------------|--|
| Mediation:             | January 5, 2012 at 9:30 a.m.   |
| Prehearing Conference: | February 27, 2012 at 1:30 p.m.   |
| Due Process Hearing:   | March 12-15, and 19-20, 2012, at 1:30 p.m. on<br>March 12 and 19, 2012, and 9:00 a.m. on the other<br>dates. |

IT IS SO ORDERED.

Dated: November 23, 2011

/s/

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings