

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

KERN COUNTY SUPERINTENDENT OF
SCHOOLS AND PANAMA-BUENA VISTA
UNION SCHOOL DISTRICT,

OAH CASE NO. 2012010845

KERN COUNTY SUPERINTENDENT OF
SCHOOLS AND PANAMA-BUENA VISTA
UNION SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011120395

ORDER GRANTING MOTION TO
CONTINUE DUE PROCESS HEARING

The Kern County Superintendent of Schools and the Panama-Buena Vista Union School District (hereafter “the District”) filed its complaint in this matter on December 8, 2011. Student filed a complaint on January 26, 2012. The Office of Administrative Hearings (OAH) consolidated the cases on February 7, 2012 on Student’s motion.. On February 6, 2012, Student filed a first amended complaint.

On March 13, 2012, the District and the Superintendant moved to continue the due process hearing in the consolidated matters on the ground that the currently scheduled day for hearing (March 29, 2012) is insufficient because the hearing will require five or six days. On March 14, 2012, Student filed an opposition, asserting that Student expected the matter to begin on March 29, 2012, and continue day-to-day until completed. On the same day the District filed a reply, contending that District’s counsel was unavailable, due to a previously paid for vacation, during the week of April 2, 2012. Therefore, while District could participate in a hearing on March 29, 2012, the matter would still require a continuance in order to complete.

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)(2006); 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).)

OAH has reviewed the request for good cause and the request is:

Granted. OAH initially calendars each non-expedited case with a date certain upon which the hearing in the matter will begin and expects matters to continue day-to-day until completed, unless a party seeks and is granted a different schedule. The initial date of hearing set by OAH is not automatically subject to a continuance simply because more than one day is required for the hearing. However, here the District has established good cause in that this matter will require multiple days of hearing and District's counsel is unavailable to proceed day-to-day. Furthermore, beginning the hearing on March 29, 2012, and then continuing it will not significantly advance in time any relief Student may obtain. All dates are vacated. This matter will be set as follows:

Prehearing Conference:	April 25, 2012, at 1:30 PM
Due Process Hearing:	April 30, 2012, at 1:30 PM; May 1-3, 2012, at 9:30 AM; May 7, 2012, at 1:30 PM; and May 8, 20-12, at 9:30 PM.

IT IS SO ORDERED.

Dated: March 15, 2012

/s/

CHARLES MARSON
Acting Presiding Administrative Law Judge
Office of Administrative Hearings