

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MORELAND SCHOOL DISTRICT.

OAH CASE NO. 2012050296

ORDER GRANTING IN PART  
DISTRICT'S REQUEST FOR  
CONTINUANCE AND SETTING  
PREHEARING CONFERENCE AND  
DUE PROCESS HEARING

On June 11, 2012, the District filed with the Office of Administrative Hearings (OAH) a request to continue the due process hearing in this matter for two months because the District is on summer break, and counsel for the District has a planned vacation beginning June 28, 2012, which is currently the first day of hearing. On June 14, 2012, Student opposed the request to continue the matter for two months, although he did not object to a brief continuance to permit counsel for the District to take her planned vacation.

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) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted in part. All dates are vacated. However, the matter shall be continued for 11 days, not two months as requested, because the District did not establish that there is good cause for continuance for the entire summer break.

Prehearing Conference: July 2, 2012, at 10:00 a.m.  
Due Process Hearing: July 10, 2012 at 10:00 a.m.

IT IS SO ORDERED.

Dated: June 15, 2012

/s/

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings