

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. IRVINE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2010040740
IRVINE UNIFIED SCHOOL DISTRICT v. PARENTS ON BEHALF OF STUDENT.	OAH CASE NO. 2010031369 ORDER PARTIALLY GRANTING JOINT REQUEST TO VACATE PREHEARING AND DUE PROCESS HEARING DATES

This matter is presently set for a pre-hearing conference April 4, 2011, and for a due process hearing to begin on April 11, 2011. On April 1, 2011, the parties filed a joint stipulation to vacate the scheduled dates. As a basis for their joint request the parties state that they have reached a settlement agreement which has been signed by Student's father but is still awaiting a signature from Student's mother. The joint request also states that Student's parents do not live together.

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).)

In this matter, the joint request filed by the parties fails to state whether counsel for Student represents both of Student's parents and whether Student's mother has been involved in the settlement discussions and has agreed in principle to the settlement agreement. The

request also fails to state when the Irvine Unified School District's School Board is expected to meet in order to consider approval of the settlement agreement.

The Office of Administrative Hearings (OAH) generally will not cancel hearing dates until the filing party files a letter of withdrawal of the case or one of the parties files the signature page of the signed agreement, neither of which has occurred in this matter. Therefore, until the parties submit to OAH a copy of the fully executed signature page of their settlement agreement, their motion to vacate the hearing date is denied without prejudice to renewing the motion once the settlement has been fully executed. However, based upon the parties' representation that a fully executed settlement agreement is forthcoming, OAH will grant the parties' motion to vacate the present date for the pre-hearing conference and will continue it to Monday, April 11, 2011, at 9:30 a.m. at the start of the hearing in this matter. Once the parties have obtained all signatures to the settlement agreement, they may renew their motion to vacate all dates and to schedule a status conference for a date subsequent to the meeting of the District's School Board.

ORDER

1. The parties' joint request to vacate the prehearing conference date is partially granted. The prehearing conference in this matter is continued until April 11, 2011, at 9:30 a.m., at the start of the due process hearing presently scheduled in this matter.

2. The parties' joint request to vacate the due process hearing date is denied without prejudice. Unless the parties submit a copy of a fully executed signature page from their settlement agreement the hearing will proceed as scheduled on April 11, 2011.

Dated: April 1, 2011

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings