

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NOs. 2011070549 and
2011060368

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On July 29, 2011, counsel for the Upland Unified School District (District) filed with the Office of Administrative Hearings (OAH) a Motion for Continuance of the initially scheduled hearing dates in these consolidated cases. The motion was supported by declarations. On August 2, 2011, counsel for Student filed with OAH an opposition to the motion.

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).)

OAH has reviewed the request for good cause and the request is granted, though not in the form requested by the District. The District requested a continuance of the hearing dates to the week of October 17, 2011, which would amount to a two month delay in the hearing of these matters. Given the issues presented by the consolidated cases (child find with unilateral placement in a residential treatment center, and the right to assess), such a continuance is excessive. The District has also contended that, because the school year starts on August 23, 2011, many District witnesses will be unavailable if the due process hearing is scheduled prior to that date. Yet, the supporting declarations attached to the Motion for Continuance did not identify such witnesses.

Accordingly, the currently scheduled hearing dates in these cases are vacated, and the new dates are as follows:

Mediation: 08/09/2011, at 9:30 a.m., pursuant to agreement
between the parties.
Status Conference: N/A
Prehearing Conference: 08/10/2011, at 1:30 p.m.
Due Process Hearing: 08/15/2011; 08/16/2011; 08/17/2011; 08/18/2011.

IT IS SO ORDERED.

Dated: August 02, 2011

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings