

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONO COUNTY DEPARTMENT OF
MENTAL HEALTH.

OAH CASE NO. 2009031023

ORDER DENYING REQUEST FOR
CONTINUANCE

On March 27, 2009, the Mental Health submitted a request to continue the due process hearing and set dates for mediation and a trial setting conference. The motion did not include any agreed upon dates from the parties and did not include an explanation about what efforts had been made to agree upon dates. Student did not respond 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 that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020.) In weighing motions for continuances in special education due process matters, the Office of Administrative Hearings (OAH) looks to California Rules of Court for guidance. Generally, continuances of matters are disfavored. (Cal. Rules of Court, 3.1332(c).)

Denied. All hearing dates and timelines shall proceed as calendared. Here, the Mental Health requested a continuance of the hearing dates, and OAH is inclined to grant the continuance. However, the parties did not meet and confer regarding new hearing dates as is requested by OAH. Forms are available on the OAH website that explain the procedure. Trial setting conferences are set only in unusual cases. The parties may re-submit the request to continue after they have agreed upon hearing dates.

IT IS SO ORDERED.

Dated: April 6, 2009,

/s/
RICHARD M. CLARK
Administrative Law Judge
Office of Administrative Hearings