

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

ESCONDIDO UNION SCHOOL
DISTRICT.

OAH CASE NO. 2010020081

ORDER DENYING REQUEST FOR
CONTINUANCE

On March 1, 2010, the parties submitted to the Office of Administrative Hearings (OAH) a joint request for a continuance. The request was accompanied by a letter which stated that the parties will meet in a Resolution Session on March 9, 2010; that the parties expect to resolve the dispute at the Resolution Session; and that, accordingly, the parties ask that OAH vacate the presently scheduled hearing dates in the case.

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.

OAH does not operate its calendar by placing special education administrative due process proceedings in an off-calendar status. Parties to such proceedings cannot ask OAH to vacate hearing dates as part of a continuance request and not provide mutually acceptable continuation dates. OAH is inclined to grant a continuance request in this case; however, the parties must provide new hearing dates. The current request is hereby denied.

IT IS SO ORDERED.

Dated: March 03, 2010

/s/

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