

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010041542

ORDER DENYING REQUEST FOR
CONTINUANCE

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, 3.1332 .) Generally, continuances of matters are disfavored. (Cal. Rules of Court, 3.1332(c).)

This case was filed April 30, 2010 and was previously continued to these agreed hearing dates, August 9- 12, 2010. District has now filed another request for continuance which is opposed by Student. District asserts that four witnesses are unavailable based on the following: maternity leave, summer break, in Oregon and in Australia. District requests that the hearing be continued to September 13-16, 2010. District cites no law, and none is found, which authorizes these IDEA hearings to be delayed due to summer break or for winter and spring break as well for that matter. District should have been aware of these witness schedules before agreeing to the current hearing dates. As to the maternity leave, this witness was pregnant at the time this case was filed and District had months to contemplate alternate arrangements to capture her testimony (ie. deposition) prior to her departure. Such lack of preparedness does not justify a second continuance. However, that two witnesses are out of state and country presents another matter despite such lack of detail in the motion such as when these witnesses made their plans and when District became aware. Therefore the continuance is denied and the case will proceed as scheduled with the proviso that witness issues can be readdressed with the hearing judge who at a minimum will proceed with the Student's case on these agreed hearing dates.

OAH has reviewed the request for good cause and the request is:

Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared

IT IS SO ORDERED.

Dated: August 06, 2010

/s/

ANN F. MACMURRAY
Presiding Administrative Law Judge
Office of Administrative Hearings