

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010080140

ORDER DENYING REQUEST FOR
CONTINUANCE / MOTION TO SET
ADDITIONAL DATES

On September 9, 2010, Student filed a “Motion to Set Additional Dates,” which was really a request to continue the dates in this matter. The motion proposed hearing dates on October 4-7, 2010 and October 11-12, 2010. On September 14, 2010, District opposed the motion. In support of the opposition, District demonstrated that Student’s attorney was aware that District’s counsel was not available on October 4-7, 2010. District also correctly noted that OAH is not scheduling any hearings during the week of October 11-14, 2010.

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 for good cause. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 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).)

Here, Student’s “Motion for Additional Dates” is really a motion for a continuance, as Student is not proposing to start the hearing as scheduled on September 28, 2010. Student desires six hearing dates and while a continuance might be in order to accommodate this request, Student’s attorney failed to meet and confer with the District’s attorney regarding new dates and selected dates despite knowing that District’s counsel was unavailable on the dates Student is requesting. Similarly, Student’s attorney ignored OAH’s calendar, which is posted on its website, showing that no hearings are being scheduled during the week of October 11-14, 2010.

Should Student desire a continuance, forms are available on the OAH website that explain the procedure for a stipulated continuance or failing agreement on dates a unilateral request with a statement that the parties have meet and conferred and are unable to agree to dates. The parties are advised that trial setting conferences are set only in unusual cases and parties are expected to meet and confer prior to requesting continuances.

Student's Motion for Continuance / "Motion to Set Additional Dates" is denied. All hearing dates and timelines shall proceed as calendared.

IT IS SO ORDERED.

Dated: September 14, 2010

/s/

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