

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011020712

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING NEW
MEDIATION, PREHEARING
CONFERENCE, AND DUE PROCESS
HEARING DATES

On June 6, 2011, Student filed a request to continue the dates in this matter asserting that she needed additional time to obtain legal representation. Elk Grove Unified School District (District) filed an opposition to Student's request. Student subsequently filed a response to District's opposition. Student initially filed her request for a due process hearing on February 28, 2011. Student requested continuances on March 18, 2011, and May 12, 2011, on the basis that she needed time to obtain legal representation, which the Office of Administrative Hearings (OAH) granted. This is Student's third request for a continuance. Student asserts that the representative she attempted to retain was unavailable for the current schedule and requests a 60 day delay.

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. All dates are vacated. **However, there will be no further continuances granted due to Student's inability to obtain representation.** District's request for a trial setting conference (TSC) is denied.¹ District may file appropriate motions

¹ Neither party proposed alternative hearing dates for OAH to consider when assigning new dates. OAH will only set a TSC, or a status conference, in limited circumstances, for example when the parties have an executed final settlement that requires board approval.

if it is unavailable on the dates set below. The parties are encouraged to meet and confer prior to filing a motion to continue. This matter will be set as follows:

| | |
|------------------------|---|
| Mediation: | August 11, 2011, at 9:30 AM ² |
| Prehearing Conference: | August 24, 2011, at 1:30 PM |
| Due Process Hearing: | September 12-15, 2011, at 9:30 AM, except on September 12, 2011, when the hearing shall begin at 1:30 PM, unless otherwise ordered. |

IT IS SO ORDERED.

Dated: June 10, 2011

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings

² The ALJ has scheduled a mediation date since the parties have not participated in mediation for this case. Mediation is voluntary, however, the parties are strongly encouraged to participate in mediation and work towards reaching a settlement agreement before the due process hearing.