

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CORNING UNION ELEMENTARY
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011090119

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On September 15, 2011, Parent on behalf of Student filed a request to continue the prehearing conference and hearing dates in this matter in order to retain legal counsel. On September 20, 2011, the Corning Union Elementary School District (District) filed a reply opposing the motion on multiple grounds.

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, the Office of Administrative Hearings (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:

Denied without prejudice at this time. OAH is inclined to grant the continuance, as this is the first request. However, Student asked for an open-ended continuance, which OAH will not permit. Should Student choose to re-submit the request, Parent shall consult with the attorney for the District prior to doing so, and re-submit the request with proposed dates for both the PHC and the hearing. District retains the right to object.

IT IS SO ORDERED.

Dated: September 26, 2011

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings