

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BERKELEY UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012020888

ORDER DENYING REQUEST FOR  
CONTINUANCE

On March 28, 2012, the Office of Administrative Hearings (OAH) received, from Jan E. Tomsy, attorney for the Berkeley Unified School District (District), a request for continuance on OAH's form. The dates on the request are filled in by Student's counsel, Nicole Hodge Amy. Ms. Amy has signed the request, however, District's counsel has not signed in agreement to the dates. Therefore, this is treated as a contested request for continuance by Student.

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:

Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. While District took the courtesy of filing the form for Student, based upon Ms. Tomsy's comments on the form, it is clear that Ms. Amy failed to meet and confer with District prior to sending the continuance form to District's counsel. As the form indicates, District is unavailable on the proposed mediation date. District does not state that it is available on the proposed prehearing conference (PHC) and due process hearing dates, therefore, there is no agreement as to those dates. Furthermore, Student has failed to consult OAH's online calendar because Student requests a PHC on a date that OAH's calendar is dark.

Here, OAH is inclined to grant a continuance. However, Student must meet and confer with District on agreeable dates. Student is further instructed to consult OAH's online calendar for available dates. Finally, the parties are advised that OAH will not be able to accommodate any proposed dates during the weeks of April 16, 2012, and April 23, 2012. After the parties have met and conferred, they may file a joint request to continue, or a separate motion to continue if they cannot agree upon dates.

IT IS SO ORDERED.

Dated: March 29, 2012

/s/

---

BOB N. VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings