

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009050976

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING DATES

A telephonic prehearing conference (PHC) in this matter was begun before Administrative Law Judge Deidre L. Johnson, Office of Administrative Hearings (OAH), on July 6, 2009. Attorney Melanie Segal appeared on behalf of Student and Parents.¹ Attorney Caroline A. Zuk appeared on behalf of the District. The PHC was recorded.

On June 2, 2009, OAH served the parties with a scheduling order setting the due process hearing in this matter on July 14, 2009, for one day of hearing. On July 3, 2009, District filed a motion for a continuance of the hearing on the grounds that Ms. Zuk is unavailable on July 14, 2009, due to vacation, at least seven days are necessary to try this case, and the District has recently lost three special education administrators, which has negatively impacted its ability to prepare for hearing. On July 3, 2009, Student filed an opposition to the motion, claiming that Parents will suffer financial hardship if this case is continued.

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).)

District's motion for a continuance and Student's opposition are both supported by declarations under penalty of perjury from counsel. The matter was argued and submitted for ruling on the motion.

Ms. Zuk's vacation conflict constitutes good cause to continue the hearing. In addition, the fact that the parties have not previously engaged in mediation and are now

¹ Attorney Lauren Lambert observed the hearing telephonically with Ms. Segal.

willing to engage in mediation constitutes good cause for a continuance for the hearing in this matter.

The parties' current estimate for the allocation of time is three days for Student and six days for District, for a total of nine days of hearing. District shall use best efforts to reduce its share of the hearing dates to three or four days. The parties are ordered to meet and confer prior to the next PHC to reduce the number of witnesses and the days estimated for hearing in this matter.

Based on the foregoing, the request for continuance is:

Granted. All dates are vacated. This matter will be set for the following dates and times at the District's offices in San Juan Capistrano:

Mediation: July 16, 2009, at 9:30 a.m.

Telephonic Prehearing Conference: August 21, 2009, at 10:00 a.m.

Hearing: September 1 and 14, 2009 at 9:30 a.m., and
September 2, 3, 4, and 15, 16, 17, and 18, 2009 at
9:00 a.m.

Dated: July 6, 2009

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings