

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

SANTA CLARA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009120028

ORDER DENYING REQUEST FOR
CONTINUANCE

On April 1, 2010, the parties filed their third joint request to continue the dates in this matter. The two prior requests were granted and on each occasion, the matter was set for dates the parties requested. All three requests contain the following basis for the continuance:

The parties met in mediation on January 5. As part of ongoing mediations, Respondent was to observe student in current setting prior to reconvening the mediation. Student's illness and medical intervention delayed the observation, and the parties desire to meet in mediation following said observation.

In addition, the first request, made in January 2010, stated, "Current hearing set for date prior to agreed upon mediation date." The second request, made in March, stated: "District's counsel's hearing schedule required continuation of dates." The current request includes the same additional reason as the March request.

The most recent mediation was scheduled for April 1, 2010, at the parties' request. District cancelled that date because of a conflict with its counsel's calendar. When OAH granted the second request for a continuance on March 8, 2010, the parties were informed that no future continuances would be granted.

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 that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020.) In weighing motions for continuances in special education due process matters, the Office of Administrative Hearings

(OAH) looks to California Rules of Court for guidance. Generally, continuances of matters are disfavored. (Cal. Rules of Court, 3.1332(c).)

OAH has reviewed the request for good cause and the request is:

Denied. The parties have not established good cause for the continuance request. The current dates were scheduled at the request of the parties. No information was provided concerning the conflict in District's counsel's schedule, when the conflict was known to District, or why the conflict precludes District from going forward as scheduled. The prehearing conference is scheduled on April 26, and the hearing is scheduled on May 3 and 4. There is ample time prior to the hearing for the parties to have another mediation session. If the parties wish to do so, they are encouraged to contact OAH with an available date for mediation prior to the hearing. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

Dated: April 5, 2010

/s/

JUDITH A. KOPEC
Presiding Administrative Law Judge
Office of Administrative Hearings