

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2010060775

ORDER DENYING REQUEST FOR
CONTINUANCE, WITHOUT
PREJUDICE

On July 13, 2010, the parties filed a joint request to continue the dates in this matter, based upon the illness of Student's grandfather. The parties request to continue the mediation until November 17, 2010, and to continue the due process hearing to January 3-5, 2011, with a PHC to be held on December 27, 2010. The joint request to continue was filed immediately after the granting by OAH on July 12, 2010, of District's previously filed request for continuance. As a result of District' request, which was filed on June 28, 2010, and was unopposed, the initial hearing date was continued from August 12, 2010, to September 9, 2010, and the original Prehearing Conference and Mediation dates were continued as well.

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, 3.1332.) 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 without prejudice. All hearing dates and timelines shall proceed as calendared. Here, the parties have requested a second continuance of the hearing dates, and OAH is inclined to grant a brief continuance to accommodate the illness of Student's grandfather. However, the parties have now requested serial continuances of the mediation, hearing, and PHC dates, and the latest continuance request seeks dates far beyond 90 days from the initial continuance date of September 9, 2010, let alone from the initial hearing date of August 12, 2010. The parties shall meet and confer and select mediation, PHC, and hearing dates such that the hearing on this matter may be completed by no later than

December 17, 2010. The parties may re-submit the request to continue after they have agreed upon hearing dates that comply with this Order.

IT IS SO ORDERED.

Dated: July 16, 2010

/s/

ELSA H. JONES
Acting Presiding Administrative Law Judge
Office of Administrative Hearings