

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010060861

ORDER DENYING REQUEST FOR  
CONTINUANCE

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).)

This case was filed June 16, 2010 and was previously continued to the current hearing dates. District has now filed another request for continuance which is opposed by Student. District asserts that one key witness (Mr. Kant) is out of the country on vacation until September 8, 2010. District requests that the hearing be continued to a date after September 8, 2010 when this witness returns. District should have been aware of the witness' schedules before and had time to contemplate alternate arrangements to capture the testimony (ie. deposition) prior to his departure. Such lack of preparedness does not justify a second continuance. However, that this witness is a key witness and is out of the country presents an added consideration. While the continuance is denied and the case will proceed as scheduled, it is done so with the proviso that this witness issue can be readdressed with the hearing judge who will proceed with the Student's case and with District's case on the current hearing dates. The hearing judge has the latitude to set an additional day of hearing after September 8, 2010 when this witness returns in order to capture his testimony.

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

IT IS SO ORDERED.

Dated: August 09, 2010

/s/

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ANN F. MACMURRAY  
Presiding Administrative Law Judge  
Office of Administrative Hearings