

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLEASANTON UNIFIED SCHOOL
DISTRICT AND ALAMEDA COUNTY
MENTAL HEALTH.

OAH CASE NO. 2010100044

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
HEARING

On November 4, 2010, Pleasanton Unified School District (District) and Alameda County Mental Health (County) filed a joint request to continue the dates in this matter. On November 10, 2010, Student filed an opposition. District and County request that a prehearing conference be scheduled on December 1, and the hearing be scheduled on December 7 through 9, or 13, 14 and 16.

The request is based on several factors. First, the hearing is scheduled for one day and the parties anticipate that it will take three days. Second, the hearing is scheduled during the week of Thanksgiving, making it impossible to schedule three consecutive days for hearing due to the Office of Administrative Hearing's schedule. Third, District is closed the week of November 23rd, making its staff unavailable to testify. Finally, County's attorney is on vacation out of the country; she informed the parties of this conflict shortly after OAH scheduled the matter.

Student opposes the request on several grounds. First, Student argues that an attorney's unavailability due to a vacation is not good cause. Second, Student contends that the attorney agreed to represent the party after the matter was already scheduled for hearing. Finally, Student requested three days for the hearing in the complaint, but OAH only scheduled it for one day during Thanksgiving week because of the need for a speedy hearing.

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:

Granted. All dates are vacated. Good cause is established. OAH does not initially set a hearing for more than one day unless all parties agree to specific dates. Since Student did not provide mutually agreed-upon dates, this matter was scheduled for one day of hearing. This is the first continuance and it is for only a few weeks. This matter will be set as follows:

Prehearing Conference: December 1, 2010, at 10:00 AM
Due Process Hearing: December 7 through 9, 2010, at 9:30 AM

IT IS SO ORDERED.

Dated: November 12, 2010

/s/

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