

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

GUARDIAN ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF  
EDUCATION; LOS ANGELES COUNTY  
DEPARTMENT OF MENTAL HEALTH;  
CALIFORNIA DEPARTMENT OF  
MENTAL HEALTH & CALIFORNIA  
HEALTH AND HUMAN SERVICES  
AGENCY.

OAH CASE NO. 2010110301

ORDER DENYING REQUEST FOR  
CONTINUANCE

On December 20, 2010, California Department Of Mental Health (CDMH) and the California Health And Human Services Agency (CHHSA) filed a request to continue the due process hearing in the above matter until January 18-21, and 27-31, 2011 on the ground that a witness was unavailable due to military duty. Although the request was supported by a declaration, there was no evidence that CDMH and CHHSA had met and conferred with Student or the other remaining respondents about their availability for hearing on the requested dates. Student filed an opposition on December 23, 2010.

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, rule 3.1332 .) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

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

Denied. All hearing dates and timelines shall proceed as calendared. Here, CDMH and CHHSA have requested a reasonable continuance of the hearing dates, and OAH is inclined to grant the continuance. However, CDMH and CHHSA have not demonstrated that they attempted to meet and confer with the other parties, particularly, the other respondents, to determine mutually agreeable dates for hearing should the continuance be granted. OAH will only calendar trial setting conferences

under extraordinary circumstances, and none are present. In addition, the request for eight hearing days is excessive in light of the issues presented, and no more than four hearing dates will be calendared. CDMH and CHSA may resubmit the continuance request after they have met and conferred with all of the other parties regarding mutually agreeable dates. Any new request should also include a prehearing conference date and time that is consistent with OAH scheduling practices. The parties are advised that OAH expects mutual cooperation from counsel in the scheduling of hearings, even if a party opposes a continuance.

IT IS SO ORDERED.

Dated: December 23, 2010

/s/

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RICHARD T. BREEN  
Presiding Administrative Law Judge (acting)  
Office of Administrative Hearings