

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CAPISTRANO UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2010120255

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On December 21, 2010, counsel for the Capistrano Unified School District filed with the Office of Administrative Hearings (OAH) a Request to Vacate Dates and to Calendar a Trial Setting Conference. The request seeks to vacate the initially scheduled hearing dates in the case, and set a Trial Setting Conference (TSC) to establish new hearing dates. However, except in rare cases, OAH does not calendar TSC's.

On December 23, 2010, counsel for Student filed with OAH a Request for More Time to Respond to Motion to Set TSC.

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 .)

OAH follows a practice which requires the parties in a special education administrative due process proceeding to meet and confer, and agree upon mutually agreeable continued hearing dates. The parties have not followed this process. OAH will grant the District's request to vacate the initially scheduled hearing days, and set new dates, with the understanding that the parties can submit mutually agreeable dates if desired.

All dates are vacated. This matter will be set as follows:

Mediation:	To be determined by the parties
Trial Setting Conference:	N/A
Prehearing Conference:	02/16/2011, at 1:30 p.m.
Due Process Hearing:	02/22/2011; 02/23/2011; 02/24/2011.

IT IS SO ORDERED.

Dated: December 29, 2010

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings