

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PALM SPRINGS UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2011061076

ORDER DENYING REQUEST FOR
CONTINUANCE

On October 31, 2011, Parents, on behalf of Student, filed with the Office of Administrative Hearings (OAH) a request for continuance in the form of a letter stating that both Father and Mother would be unable to attend the due process hearing in the matter scheduled to start on November 1, 2011. The letter referenced health problems for Father and work commitments for Mother. The letter was supported by a letter from a physician stating that Father has back problems and should be excused from attending a hearing.

At the hearing, counsel for the Palm Springs Unified School District stated an objection to the 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, 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 for the following reasons. First, the request was untimely, as OAH received the letter at 4:56 p.m., on the day before the scheduled hearing, and Parents failed to serve the District with the notice of unavailability. Second, the supporting letter from the physician is dated October 25, 2011, but Parents failed to inform OAH about this letter until the eve of trial, and this failure prevented the parties from having an opportunity to discuss reasonable accommodations for Father. Third, the “work commitments” of Mother is not good cause for continuing a matter that was initially filed with OAH on June 24, 2011, and that has already received several continuances based upon previous requests from Parents.

IT IS SO ORDERED.

Dated: November 01, 2011

/s/

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