

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLOVERDALE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012010507

ORDER GRANTING, IN PART AND
DENYING IN PART, REQUEST FOR
CONTINUANCE, AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On January 24, 2012, the Cloverdale Unified School District (District) filed a request to continue the due process hearing in this matter and to reschedule the mediation to February 7, 2012, when the parties are set to mediate Student's sibling's case. District requests a continuance on the grounds that a key witness is unavailable on the currently set February 23, 2012 hearing date. District estimates the matter will take one day of hearing. On January 30, 2012, Parent, on behalf of Student, filed an opposition to District's request on the grounds that continuing the matter will adversely affect Parent's employment. Neither party has indicated that the parties met and conferred prior to District's filing of its request.

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, the Office of Administrative Hearings (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).)

With respect to the request to change the date of the mediation, OAH has reviewed the request for good cause and the request is denied. Mediation is voluntary. Neither District nor Parent's filings indicate that Parents concur with the District's proposed mediation date. Therefore, because the request to reschedule mediation is not a joint request, it is denied.

With respect to the request to continue the due process hearing, OAH has reviewed the request for good cause and the request is:

Granted. The currently set prehearing conference and due process hearing is vacated. District asserts that this matter will require one day of hearing. Parents do not dispute this assertion. Because this matter will be heard in a single day and District's key witness is unavailable, District established good cause to continue the due process hearing. This matter will be set as follows:

Mediation:	February 9, 2012, at 9:30 AM ¹
Prehearing Conference:	February 22, 2012, at 10:00 AM
Due Process Hearing:	February 27, 2012, at 1:30 PM

IT IS SO ORDERED.

Dated: January 30, 2012

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings

¹ The parties may cancel mediation if they do not desire to participate in mediation. Conversely, if District can obtain Parents' consent, the parties may submit a request to reschedule mediation to an agreed upon date other than February 9, 2012.