

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLOVERDALE UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012030622

ORDER DENYING REQUEST TO
ADVANCE DATES

On March 19, 2012, the Cloverdale Unified School District (District) filed a request to continue the prehearing conference and due process hearing in this matter on the grounds of unavailability of counsel. The District did not meet and confer with Parents. Student did not file a response. On March 26, 2012, the Office of Administrative Hearings (OAH) issued an order that set the Prehearing Conference for May 14, 2012, at 10:00 a.m., and the due process hearing for May 22 – 24, 2012, at 9:30 a.m. On April 2, 2012, the District filed a motion to advance dates because dates set by OAH are beyond the time the District wished that the matter be heard. Student did not submit a response.

APPLICABLE LAW

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 will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

DISCUSSION AND ORDER

The District alleges no new facts, circumstances, or law in support of its motion to advance dates, which is in fact a request for reconsideration. OAH set the Prehearing Hearing Conference and due process hearing dates based on information contained in the District's March 19, 2012 continuance request and OAH's availability. Information contained in the District's April 2, 2012 motion to advance hearing dates does not establish grounds for OAH to reconsider its prior order. Accordingly, the District's motion to advance hearing dates is denied, and all dates remain as calendared.

IT IS SO ORDERED.

Dated: April 6, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings