

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CORONA-NORCO UNIFIED SCHOOL
DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009020286

ORDER DENYING REQUEST FOR
CONTINUANCE

The District's due process hearing request was filed on February 9, 2009. On February 27, 2009, Student filed a first request for continuance on the ground that Mother wanted to obtain counsel. The continuance was granted. On April 30, 2009, Student's request to continue the hearing to accommodate Mother's health was granted. A prehearing conference was set for June 1, 2009 and a hearing was set for June 3, 4, and 5, 2009. On May 29, 2009, Mother used a peremptory challenge to disqualify the OAH ALJ assigned to the hearing.

On June 1, 2009, lay advocate Jim Peters informed OAH by phone that he would be representing Student at the hearing. Lay advocate Peters did not file a notice of representation with OAH, but was permitted to represent Student at the prehearing conference on June 1, 2009. On June 2, 2009, lay advocate Peters learned that ALJ Trevor Skarda was assigned to conduct the hearing. Lay advocate Peters filed a motion to recuse ALJ Skarda for cause on June 2, 2009. Significantly, the motion was signed on behalf of "Peter D. Collison Professional Corporation" on pleading paper that listed attorney Collison's address and state bar number as "attorney for Petitioner." Prior to the hearing on June 3, 2009, Student's motion to recuse ALJ Skarda for cause was denied. At that time, lay advocate Peters announced that he was withdrawing from the case and left the hearing. At that time, Mother's oral request for a continuance was granted to June 29, 30 and July 1, 2009. Mother agreed to the new hearing dates at that time.

On June 24, 2009, Student's Mother filed a new motion for continuance. Mother recites in the motion that on June 1, 2009, she retained both attorney Collison and lay advocate Peters to represent Student. Mother now requests a continuance on the ground that she cannot find new counsel and would like a continuance until lay advocate Peters is available. District opposed the continuance and contended in its opposition that two District witnesses will no longer be employed by the District after June 30, 2009. For the reasons set forth below, Student's request is denied.

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).) 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).)

Here, Student has not shown good cause for a continuance. This case has been pending since February and Student has already been granted three continuances of the hearing to dates Mother agreed to. Mother provides no explanation for why, if lay advocate Peters was acting on behalf of attorney Collison's professional corporation, attorney Collison did not assume the representation. Similarly, despite Mother's statement that she retained attorney Collison, Mother provides no explanation regarding attorney Collison's availability. Mother also has provided no evidence that she actually attempted to retain other representation. Finally, the parties were ready for hearing on June 3, 2009. The fact that lay advocate Peters chose not to participate at that time cannot provide good cause to continue the hearing until he is available. Accordingly, having failed to show good cause for a continuance, Student's motion is denied.

All hearing dates shall proceed as calendared.

IT IS SO ORDERED.

Dated: June 25, 2009

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings