

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

COACHELLA VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2010060469

ORDER DENYING WITHOUT
PREJUDICE JOINT REQUEST FOR
CONTINUANCE

Student originally filed his complaint against the Coachella Valley Unified School District (District) on June 10, 2010. On October 19, 2010, Student's the Office of Administrative Hearings (OAH) granted Student's motion to amend his complaint, setting the due process hearing in this matter to begin on January 24, 2011.

On January 5, 2011, the parties filed a joint request to continue all dates. The parties stated that based on a recent OAH decision regarding Student, a private assessor was going to conduct an assessment of him. The parties requested to continue the hearing for approximately two months in order for the assessment to be completed and for the parties to hold an individualized education program (IEP) meeting for Student. OAH granted the parties' motion and scheduled the mediation, prehearing conference, and due process hearing on the dates they requested.

The parties filed a renewed joint request for continuance on April 5, 2011. The grounds for this request are identical to those presented in the previous request made by the parties: that the parties wish to continue the matter so that Student may be assessed by a private assessor and that the parties can then hold an IEP meeting before mediating or going to hearing on Student's complaint. The parties request a six-month continuance for the holding of the due process hearing.

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).)

In this case, the parties have failed to explain why Student was not assessed during the two months between the time they requested a continuance on January 5, 2011, and their renewed motion to continue. They also fail to give any explanation as to why a six-month continuance is needed or warranted. Student's original complaint was filed almost ten months ago; scheduling the hearing in October 2011 will make the case almost a year and a half old before it is heard. Without an underlying explanation for the extreme delay in this matter, there is no basis for finding that good cause exists to grant the requested continuance. The fact that the parties concur in the request is not a basis for the finding of good cause.

Therefore, the parties' joint motion to continue is DENIED without prejudice. The parties may renew their motion; however, they are cautioned that they must provide an explanation for the prolonged delay in bringing this case to hearing.

IT IS SO ORDERED.

Dated: April 05, 2011

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings