

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SHORELINE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010081038

ORDER GRANTING MOTION FOR
CONTINUANCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On September 15, 2010, Joseph C. Kinkade, attorney for the Shoreline Unified School District (District) filed a motion to continue the dates in this matter, based upon unavailability of counsel. On September 16, 2010, Margaret M. Broussard, attorney for Student, filed an opposition to District's motion. This matter is currently set for mediation on September 21, 2010, prehearing conference on September 27, 2010, and due process hearing on October 5, 2010.

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, 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, 3.1332(c).)

District's counsel, through sworn declaration, asserts that he will be out of the country until October 4, 2010. He states he is the lead counsel and cannot participate in the mediation, prehearing conference and due process hearing in this matter as currently set. Accordingly, District requests a continuance of all dates in this matter. Student contends that District's counsel, by email, indicated he would return on September 29, 2010 and therefore, counsel is available for the October 5, 2010 due process hearing. He also contends that District has other counsels who have worked on the case and are available. Student asserts that he is entitled to a speedy resolution because he is in a unilateral placement at Parent expense, during the pendency of this dispute.

OAH has reviewed District's request for good cause. There have been no previous continuances in this matter. Having considered counsel's sworn declaration in support of the

motion and Student's contentions, District's motion to continue the mediation, prehearing conference and due process hearing is granted.

ORDER

1. All dates are vacated.
2. The mediation shall be held on October 6, 2010, at 9:30 a.m.
3. The prehearing conference shall be held on October 18, at 1:30 p.m.
4. The due process hearing shall be held on October 26, 2010, at 9:30 a.m. and shall continue on consecutive business days, until completed.

Dated: September 21, 2010

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings