

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CORNING UNION ELEMENTARY
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011090119

ORDER GRANTING CONTINUANCE
OF HEARING DATE

The due process hearing in this matter was held on November 8 and 9, 2011, and was continued to a third day of hearing on November 29, 2012. On November 28, 2011, Administrative Law Judge Deidre L. Johnson (ALJ) granted the Corning Union Elementary School District's (District) unopposed motion to continue the hearing, and rescheduled the hearing for February 23, 2012.

On February 13, 2012, the Office of Administrative Hearings (OAH) scheduled a telephonic status conference with the parties for February 15, 2012. On February 15, 2012, the ALJ convened the conference call. Parent was present on behalf of Student. Attorney Peter Sturges was present on behalf of the District. District represented that it held an individualized education program (IEP) meeting and made an offer of placement and services to Student on Friday, February 10, 2012, and Parent tentatively agreed to the offer. However, Parent has not yet received the final IEP documents. After discussion, the parties requested to briefly continue the hearing in order to provide more time for Student, Parent and an advocate to review the IEP documents. District believes that Student's agreement to the new IEP offer may resolve this case without the need for further litigation.¹

1. Continuance: 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).) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).) Good cause for a brief continuance was established and the request is:

Granted. The hearing is continued to the following date and time:

¹ In addition, the ALJ has a personal conflict with the hearing date of February 23, 2012. The ALJ offered to postpone her matter if the parties wanted to go forward on that date. However, the parties agreed that a brief continuance was appropriate.

Hearing: March 13, 2012, at 9:30 a.m.

2. Other Matters:

(a) Parent shall not unreasonably delay in responding to District's February 2012 IEP offer. District and Parent agreed to the following deadline: Parent shall respond no later than close of business on Wednesday, February 22, 2012.²

(b) In the event that the dispute between the parties remains unresolved, District intends, prior to the date set for the continued hearing, to file a motion to amend the complaint in the present case to add any remaining problems relating to its 2012 IEP offer so that both cases would be heard in one hearing. OAH has not ruled on any such motion and may grant or deny such a request depending on good cause shown at that time.

3. Settlement: The hearing date will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of the signed settlement agreement has been received by OAH prior to the hearing date.

IT IS SO ORDERED.

Dated: February 16, 2012

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

² District agreed to extend its original deadline for Parent to respond because Parent has not received the final IEP documents.