

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLOVERDALE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012010520

ORDER DENYING REQUEST FOR
CONTINUANCE

On January 24, 2012, the Cloverdale Unified School District (District) filed a request to continue the dates in this matter on the grounds that a school psychologist, a key witness for District, would be out of the state through February 24, 2012. This matter is set for hearing on February 23, 2012, and District anticipates it will take three days. Parents object to the requested continuance on the grounds that continuing the matter will be detrimental to Parent's employment. There is no indication from either party whether they attempted to meet and confer prior to the filing of the motion.

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

OAH has reviewed the request for good cause and the request is:

Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. District contends that its witness is unavailable through February 24, 2012. It further asserts that this matter will take three days of hearing. Currently, the matter is set for February 23, 2012. While the case is set for one day of hearing, consistent with the initial scheduling order, OAH expects a case to go day-to-day until completed, absent good cause to continue the matter. Therefore, the matter will likely not be completed until the week of February 27, 2012. District's witness will be available within the time it will take to hear this matter, if it starts on February 23, 2012. OAH will accommodate parties and witnesses, when necessary, and take

witnesses out of order. Accordingly, District has failed to establish good cause to continue this matter based upon witness unavailability. This does not prevent the parties from meeting and conferring on a stipulated request to continue, should there be good cause, and submitting a joint request to continue in the future.

IT IS SO ORDERED.

Dated: January 30, 2012

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings