

BEFORE THE
SPECIAL EDUCATION DIVISION
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

Petitioner

v.

BERKELEY UNIFIED SCHOOL
DISTRICT,

Respondent.

OAH No. N 2005070294

(formerly SEHO No. SN05-01905)

DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California, on October 24, 2005.

Petitioner Student was represented by Maryann Dresner, Attorney at Law.

Respondent Berkeley Unified School District was represented by Christine D. Lovely, Attorney at Law.

On June 30, 2005, petitioner filed with the Special Education Hearing Office a request for due process hearing.

A prehearing conference was held on October 20, 2005. Petitioner's request for a continuance of both the prehearing conference and the hearing was found to lack good cause and was denied. The prehearing conference proceeded. The issues raised in petitioner's hearing request were clarified and rulings dismissing some of the issues were made. Petitioner was afforded the opportunity to present further evidence of good cause to justify a continuance of the hearing.

On October 24, 2005, petitioner submitted additional documents in support of the

continuance request. It was once again found that petitioner had not established good cause for continuance of the hearing. The prior ruling denying that request was left unchanged.

Following this ruling, the parties entered into an agreement, the terms of which are as follows: Petitioner's request for due process hearing is dismissed without prejudice. Petitioner may re-file her request. The district will not waive the statute of limitations in relation to any re-filed request.

ORDER

The due process hearing request filed by petitioner on June 30, 2005, is dismissed without prejudice.

DATED: October 25, 2005

MICHAEL C. COHN

Administrative Law Judge

Office of Administrative Hearings