BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. VAL VERDE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2015050766 ORDER DENYING REQUEST FOR CONTINUANCE WITHOUT PREJUDICE

On June 5, 2015, Val Verde Unified School District filed with the Office of Administrative Hearings a request to continue the dates in this matter based upon unavailability of District witnesses on the scheduled hearing date of July 28, 2015, due to District's summer recess. On June 10, 2015, Student filed an opposition to District's continuance request.

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 for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.[1] District has not identified the employees it intends to call as witnesses who are unavailable due to pre-existing summer vacation plans, nor provide a declaration that these individuals will be in fact unavailable. District's request does not provide any documentation or declarations under oath confirming that these witnesses had made their plans prior to the District's continuance request. District's sole ground for the continuance request is that it is on summer recess. The Individuals with Disabilities Education Act does not suspend due process proceedings during school district summer recesses. Were it to do so, all special education due process proceedings would come to a halt for three months each year. Clearly such is not in keeping with the speedy resolution mandate of the IDEA. The request to continue is denied without prejudice to resubmit with appropriate documentation.

IT IS SO ORDERED.

DATE: June 11, 2015

/S/
PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings

[1] The parties are advised to please contact OAH as to the status of the scheduled June 18, 2015 mediation.