BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CHINO VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016010832 ORDER DENYING STUDENT'S REQUEST FOR CONTINUANCE WITHOUT PREJUDICE

On April 29, 2016, Student filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon Student's legal counsel's scheduling conflict with the hearing dates in OAH Case Nos. 2016020431 and 2015120798, and the unavailability of Student's speech and language expert due to a serious illness. On May 3, 2016, Chino Valley Unified School District opposed the request because the conflict of hearing dates Student's legal counsel has does not constitute good cause for a continuance and because Student's legal counsel had not discussed available dates with District's legal counsel. OAH granted the parties' prior continuance request on February 19, 2016, setting this matter for hearing on May 17 – 19, 2016

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. Student did not establish good cause to continue this matter due to the scheduling conflicts with OAH Case Nos. 2016020431 and 2015120798, because the continuance based on mutually agreed upon dates in that consolidated matter was requested and granted on March 10, 2016, three weeks after the joint continuance request was granted in this matter. However, good cause for a continuance does exist due to the serious illness of Student's speech and language expert as speech and language is a central issue in this case. However, Student did not provide any information as to when Student's expert might be available or whether Student may need to obtain another expert. Therefore, Student's continuance request is denied without prejudice as it is expected that the parties will meet and confer as to available hearing dates before the prehearing conference on May 9, 2016, and be expected to discuss available dates at the prehearing conference if the parties cannot agree upon dates before then.

IT IS SO ORDERED.

DATE: May 4, 2016

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings