BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SPENCER VALLEY ELEMENTARY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2014030046 ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On March 20, 2014, Spencer Valley Elementary School District (District) filed a request with the Office of Administrative Hearings (OAH) to continue the dates in this matter based upon the District being on Spring Break and its witnesses not being available and unavailability of District's counsel, who is subpoenaed to testify in a criminal matter. On March 20, 2014, Student filed a response that requested that the parties discuss the continuance request at the March 24, 2014 Prehearing Conference.

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:

☒ Granted. All dates are vacated.[1] District established good cause for a continuance of this matter based on the unavailability of District witnesses due to Spring Break and its legal counsel to appear as a witness in another matter. If Student files her own due process complaint and requests to consolidate the cases, the parties may discuss different hearing dates. This matter will be set as follows:

Prehearing Conference:	April 11, 2014, at 1:00 PM
Due Process Hearing:	April 21, 2014 at 1:30 PM, April 22 through 24, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: March 21, 2014

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

[1] District's request to schedule the mediation for April 1, 2014, cannot be granted as mediation is voluntary and Student did not agree to District's proposed mediation date. The parties may contact OAH to request mediation on a mutually agreed date and time.