

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

VAL VERDE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014020761
[consolidated with 2014040832 &
2014030737]

ORDER DENYING STUDENT'S
REQUEST FOR CONTINUANCE

On May 12, 2014, Student filed a request to continue the hearing in this matter. The May 27, 2014 hearing date was previously stipulated to by parents' advocate on March 5, 2014. Student cites as reasons an unspecified "conflict" of parents and their advocate with the May 27, 2014 hearing date, a delay until April 17, 2014 in receiving District assessment protocols, and the need to complete assessments related to a new behavior of school avoidance that arose after the district assessments and IEP offers at issue in District's cases. Student is adamant that the hearing not be delayed past July. District opposed the request as not being supported by good cause, in particular that Student stipulated to the current hearing date, that any new assessments are not relevant to the issues raised by District, and that District would have difficulty presenting District witnesses in July of 2014.

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. Good cause was not shown for further continuances. Specifically, Student stipulated to the current hearing date on March 5, 2014. By stipulating to the hearing date at the time of the last continuance, parents and their advocate indicated that they were reserving the dates and giving the hearing in this matter priority. Further, Student acknowledges receiving the District's assessment protocols on April 17, 2014, more than 30 days prior to hearing, which is more than adequate for anyone testifying for Student to review and offer an opinion of District's assessments. Finally, the issues raised by District all relate to assessments conducted in 2013 and IEP offers made before the date of District's filings, such that there is no reason for further delay.

IT IS SO ORDERED.

DATE: May 14, 2014

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings