

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

FORT BRAGG UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014061175

ORDER DENYING REQUEST FOR
CONTINUANCE

On July 1, 2014, the Fort Bragg Unified School District (District) filed a request to continue the dates in this matter on the grounds of unavailability of its witnesses due to District's summer recess. On July 8, 2014, District filed a clarification of its original request. The Office of Administrative Hearings did not receive a response from Student.

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. District has identified four employees it intends to call as witnesses who are unavailable due to "pre-existing summer vacation plans."

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 filing of this action. 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.

IT IS SO ORDERED.

DATE: July 9, 2014

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings