BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PASO ROBLES JOINT UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014020930 ORDER DENYING REQUEST FOR CONTINUANCE

On April 1, 2014, the Paso Robles Joint Unified School District (Paso) filed a request to continue the hearing in this matter on the grounds that Paso is closed for spring vacation on the currently calendared hearing date. Student opposed Paso's request; Paso filed a reply to Student's opposition; and, Student filed a reply to Paso's reply. As discussed below, the request is denied.[1]

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).) The Office of Administrative Hearings 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

[1] The pleadings by both parties contain extraneous facts, allegations and accusations that are directed personally at the representatives and parties, and based primarily upon hearsay. Such statements and accusations are not helpful to the determination of whether good cause has been established for a continuance. They only lead to lengthy pleadings that waste the financial resources of the parties. The parties' representatives are encouraged to adopt a more professional tone towards one another.

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. This matter was filed on February 25, 2014, and Paso has been aware of its potential conflict since it was served with the scheduling notice. Paso contends that several witnesses are unavailable for hearing due to prepaid vacations. However, Paso's request, and reply to Student's opposition, fails to provide proof that the witnesses who are unavailable purchased their trips prior to February 25, 2014. Paso further contends that due to spring vacation its facilities are closed and staff unavailable. However, the Individuals with Disabilities Education Act (IDEA) is silent on whether due process hearings are suspended during school vacations. In fact the IDEA's speedy resolution mandate could not be met if due process hearings were suspended during school vacation days. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.[2]

IT IS SO ORDERED.

DATE: April 7, 2014

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

[2] It appears that while some potential witnesses may be out of the state, not all are unavailable. While OAH requires a school district to produce witnesses under its control, it remains Student's responsibility to properly subpoena witnesses that are not under Paso's control on a particular hearing date.