BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
CLOVIS UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2014010199
v.	ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING
PARENT ON BEHALF OF STUDENT.	

On January 22, 2014, Student filed a request to continue the dates in this matter on the grounds that counsel had just been retained and needed time to prepare for hearing. On January 23, 2014, the Clovis Unified School District (District) filed an opposition asserting that Student's counsel has been representing Student and Parents since August 2013 and therefore had not established good cause for a continuance. There have been no prior continuances in this matter.

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 (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. Here, District's opposition establishes that Student's counsel has been consulting with Student and Parents with respect to Student's

special education issues since August 2013. However, a general representation does not necessarily mean an attorney will represent a party in litigation until that attorney files a notice of representation in the litigation. It is unknown what agreement Student and Parents had with counsel as to the scope of representation prior to the filing of this matter by District and OAH declines to speculate whether that included an agreement to represent Student in litigation prior to this case being filed. While District opposes the request for continuance, the opposition is based solely upon the length of Student's counsel's involvement in Student special education issues, and there has been no showing of any prejudice to District by the granting of a continuance. Accordingly, after consideration of District's opposition, a short continuance is granted. This matter will be set as follows:

Prehearing Conference:	March 3, 2014, at 3:00 PM
Due Process Hearing:	March 11, 2014, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: January 24, 2014

/s/

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