

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GILROY UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014030731

ORDER FOLLOWING PREHEARING
CONFERENCE AND CONTINUING
PREHEARING CONFERENCE AND
HEARING

On August 1, 2014, a telephonic prehearing conference was held before Administrative Law Judge Rebecca Freie, Office of Administrative Hearings. Mother appeared, as did an advocate, Dave Gaines, on behalf of Student. Leah Smith, Attorney at Law, appeared on behalf of Gilroy Unified School District (Gilroy). The PHC was recorded.

On July 31, 2014, Mother submitted a written request for a continuance because her previously retained attorney withdrew as counsel of record on July 29, 2014. She indicated in the request, as well as during the PHC, that she was looking for an advocate or attorney to represent her during the hearing. During the PHC, Mother represented that Mr. Gaines was her “interim advocate,” but she would possibly have Mr. Gaines represent her at the hearing, or she would retain another attorney. The attorney for Gilroy indicated she had no objection to a continuance under the circumstances.

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).)

The ALJ considered the request and considered all relevant facts and circumstances.
The request is:

☒ Granted. All dates are vacated. However, further continuances will not be granted without a substantial showing of good cause.¹

Prehearing Conference:	October 3, 2014, 1:00 p.m.
Due Process Hearing:	October 14, 2014, 9:30 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

IT IS SO ORDERED.

DATE: August 1, 2014

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

¹The parties agreed to the dates chosen for the PHC and the due process hearing.