BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
VISTA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016060769
v.	ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING REQUEST FOR CONTINUANCE OF PREHEARING CONFERENCE AND DUE PROCESS HEARING AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING
PARENT ON BEHALF OF STUDENT.	

On July 1, 2016, a telephonic prehearing conference was held before Administrative Law Judge Christine Arden, Office of Administrative Hearings. Calvin Yang, Attorney at Law, appeared on behalf of petitioner, Vista Unified School District. No one appeared on behalf of respondent, Student.[1] The PHC was recorded.

Based upon discussion with District's attorney, the ALJ issued the following order:

1. Request for Continuance

On June 28, 2016, District filed a Motion to Continue Prehearing Conference and Due Process Hearing. District's motion requested that the due process hearing currently set for July 11, 2016, be continued to a date after August 15, 2016, and a new date for the prehearing conference be set. The ground asserted by District to justify the requested continuances is that an essential District witness, critical to the presentation of District's case, will be unavailable to testify on July 11, 2016, and will remain unavailable until after August 15, 2016. Parent did not file a response to District's Motion to Continue Prehearing Conference and Due Process Hearing. District's unopposed requested continuance results in a hearing less than 40 days from the initial date set for hearing.

A due process hearing must be conducted and a decision rendered within 45 days of

[1] The ALJ called Mother at 1:00 p.m. on July 1, 2016, for the telephonic PHC. No one answered the call. The ALJ left a voicemail message for Mother stating the ALJ was calling to conduct the PHC; that the ALJ would call back in 15 minutes at 1:15 p.m.; and that, if Mother did not answer the telephone at 1:15 p.m., the PHC would proceed without her participation. The ALJ called Mother back at 1:15 p.m. No one answered the telephone. The ALJ left Mother a voicemail indicating that the PHC would proceed without Mother and only with District's attorney.

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).)

Good cause exists to continue the due process hearing and the prehearing conference, based upon District's Motion and all relevant facts and circumstances. District's Motion to Continue Prehearing Conference and Due Process Hearing is granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference:	August 8, 2016, at 1:00 PM
Due Process Hearing:	August 16 & 17, 2016, beginning at 9:30 AM on the first hearing date and at 9:00 AM on all other hearing dates, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: July 01, 2016

DocuSigned by:
Christine Arden
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CHRISTINE ARDEN
Administrative Law Judge
Office of Administrative Hearings