

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ROSS VALLEY SCHOOL DISTRICT.

OAH CASE NO. 2014020175

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
FURTHER PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On May 9, 2014, a prehearing conference was held in this matter by Administrative Law Judge Peter Paul Castillo. On May 13, 2014, Student filed a request for continuance and a motion to amend the due process hearing request.¹

Student's mother has health issues that limit her ability to participate in daily activities. During the May 9, 2014 PHC, the parties discussed accommodations for Mother so that she may participate in the due process hearing. Subsequent to the May 9, 2014 PHC Mother informed Student's counsel that her medical condition would make it difficult for her to participate in, or testify at, the currently pending due process hearing.² On May 16, 2014, the Ross Valley School District filed an opposition to the request to continue.

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

¹ The request to amend will be addressed in a separate order.

² The May 9, 2014 PHC order required any party filing a subsequent motion to set forth why the motion was not raised prior to the PHC. While Student's motion is not artfully pled, it can be ascertained from the entirety of the motion that Mother is physically weaker than originally thought and does not believe she can participate in the hearing, and that this was communicated to Student's counsel after the May 9, 2014 PHC.

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. Mother has a right to participate in the due process hearing and her declaration is sufficient to establish good cause. All dates are vacated. This matter will be set as follows:

Prehearing Conference:	June 6, 2014, at 10:00 AM ³
Due Process Hearing:	June 10 – 12, 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.

DATE: May 16, 2014

/s/

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

³ A further prehearing conference is being set so that the parties and the ALJ may have the most recent update on Mother's ability to participate as close to the start of the hearing as possible. No further PHC statements are required.