BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

MONROVIA UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2024070979

OAH CASE NUMBER 2024030766

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING

AUGUST 9, 2024

On March 21, 2024, Parents, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Monrovia Unified School District as respondent. On July 29. 2024, Monrovia filed a request for due process hearing naming Student as respondent. OAH consolidated the cases on August 1, 2024.

On August 6, 2024, OAH granted the parties their requested mediation in the consolidated cases, on August 22, 2024. However, their request for continuance was denied. The mediation date requested pre-dated the hearing dates scheduled in the

consolidated cases. Thus, it did not constitute good cause for continuance. No other cause for continuing the cases was provided.

On August 8, 2024, Student filed a request to continue the hearing dates in the consolidated cases, scheduled for August 27, 28, and 29, 2024. Student's counsel offered a declaration that he was scheduled for hearing in another case for those same dates. The conflicting case was filed earlier than either of the consolidated cases in this matter. Student's Counsel noted an additional three earlier filed cases resulting in unavailability until September 24, 2024.

Monrovia's counsel filed a notice it did not oppose the request for continuance along with an accompanying declaration stating her unavailability due to Superior Court appearance conflicts the week of September 23, 2024 and on October 1, 2024. Personal medical leave requirements resulted in Monrovia's counsel's unavailability from October 3, 2024, through October 11, 2024.

OAH must conduct a due process hearing and render a decision within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Student's counsel requests that the hearing be continued to October 15, 2024. Good cause has been established for this request. Generally, earlier filed cases have hearing priority, and counsel's unavailability for medical reasons is also good cause for a continuance. It is concerning that Student's case will have been pending for seven months at that point. However, it is also notable that the consolidation of the cases was granted over Student's objection. The parties are notified that no further continuances will be granted absent sworn evidence of extraordinary circumstances.

The requested continuance is granted. All previously scheduled dates, except the August 22, 2024 mediation, are vacated. The new dates are:

PREHEARING CONFERENCE will be held on September 30, 2024 at 1:00 P.M. to accommodate Monrovia's counsel's medical leave.

DUE PROCESS HEARING will be held on October 15, 16, and 17, 2024.

The mediation, prehearing conference, and due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, Mondays and Fridays included, at the discretion of the Administrative Law Judge. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the hearing dates, and

must subpoena witnesses, if necessary, so they are available to testify. Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings