

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

COMPTON UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014110365

ORDER FOLLOWING STATUS
CONFERENCE GRANTING A BRIEF
HEARING CONTINUANCE

On February 10, 2015, a telephonic status conference was held before Administrative Law Judge Sabrina Kong, Office of Administrative Hearings. Guy Leemhuis, Attorney at Law, appeared on Student's behalf. Elliot Field, Attorney at Law, appeared on District's behalf. The status conference was recorded.

Mr. Leemhuis filed a motion to continue the due process hearing (Motion) and verbally requested a continuance representing¹ that James Peters, the advocate from Mr. Leemhuis' firm who had been attending the hearing on February 4, and 5, 2015, had a medical emergency. Mr. Field agreed to a short continuance, and requested that the hearing restart on February 13, 2015.

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

¹ Neither OAH, nor Mr. Field had received Student's Motion at the commencement of the status conference. ALJ relied on Mr. Leemhuis' factual representations in considering the Motion. Mr. Leemhuis also stated that District's failure to produce documents pursuant to Student's subpoena as a basis for his continuance. Mr. Field represented that District complied with the subpoena and e-mailed the responsive documents to Mr. Peters on February 9, 2015, and will forward another copy of the responsive documents to Mr. Leemhuis.

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).)

ALJ found good cause for granting a short continuance because of Mr. Peters' medical emergency (which was supported by a Mr. Peters' declaration and a doctor's note stating that Mr. Peters was unable to work for five days), and to provide Mr. Leemhuis with time to reacquaint himself with the matter and proceed with the hearing. Balancing all parties' due process rights and availability, the Student's request for the hearing continuance is granted, and the hearing dates shall be reset as follows: The February 10, 11, and 12, 2015 hearing dates are vacated, and the hearing is continued, and shall take place on February 17, 18, 19, 23, and 24, 2015 and continue day to day, Monday through Thursday, as needed, at the discretion of the ALJ. The hearing shall begin each day at 9:00 a.m. and end at 4:30 p.m., unless otherwise ordered.

The hearing shall take place at the District's offices located at 2300 West Caldwell Street, Compton, CA 90220.

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. No further continuances will be considered in this matter based on the scheduling issues already contemplated at this status conference.

DATE: February 10, 2015

/s/

SABRINA KONG

Administrative Law Judge

Office of Administrative Hearings