

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

MONROVIA UNIFIED SCHOOL DISTRICT.
OAH CASE NUMBER 2023100483

ORDER GRANTING REQUEST FOR CONTINUANCE

JANUARY 25, 2024

On October 13, 2023, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Monrovia Unified School District. On November 3, 2023, the parties requested a continuance to mediate this matter. On November 3, 2023, OAH granted a January 12, 2024 mediation date and set the prehearing conference, called a PHC, for February 12, 2024, and the hearing to begin on February 21, 2024.

On January 24, 2024, the parties jointly filed a second request to continue the due process hearing to April 3, 2024, and requested a February 23, 2024, mediation date. The parties contend the hearing should be continued because they would like to mediate, but were unable to participate in mediation on January 12, 2024, because Student's attorney was ill.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or
- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

The parties established good cause for a second continuance in this matter. The parties' desire to mediate coupled with Student's attorney's illness is good cause for a second continuance. The request is granted but modified. The parties' requested March 29, 2024, PHC date does not allow sufficient time between the PHC and due process hearing. All previously scheduled dates are vacated. The new dates are:

MEDIATION will be held on February 23, 2024, at 9:00 AM to 4:30 PM.

PREHEARING CONFERENCE will be held on March 22, 2024, at 3:00PM.

DUE PROCESS HEARING will be held on April 3 and 4, 2024.

The mediation, PHC, 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, at the Administrative Law Judge's discretion. PHC statements and motions are due to OAH no later than three business days before the PHC. 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.

Linda Dowd

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings