

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONROVIA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015100654

ORDER GRANTING DISTRICT'S
REQUEST FOR A HEARING
CONTINUANCE

Student filed his due process complaint on October 19, 2015. On February 29, 2016, District filed a request to continue the dates in this matter with the Office of Administrative Hearings because District's Special Education Director, who has knowledge regarding Student's special needs and District's actions regarding Student, is on an emergency medical leave, and will not return until March 7, 2016. District requested a short hearing continuance from March 14, 2016 to March 22, 2016, to prepare for hearing upon the Special Education Director's return from medical leave. On March 1, 2016, Student opposed the motion on the basis that the Special Education Director is only one member of Student's individualized education program team, and District has other representatives with knowledge regarding Student's special needs and District's actions regarding Student. Student argued that the hearing should not be delayed indefinitely in the event the Special Education Director would not return by March 7, 2016. Further, Student's witness, Jacqueline Knight, would not be available from March 17, to 25, 2016.

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 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 continuance requested is based on the medical emergency of District's key personnel and is only a few days beyond 90 days of the initial hearing date. Student may request that accommodations be made for Ms. Knight's testimony at the PHC. The motion is granted. All dates are vacated. No further continuances will be granted in this matter based on the Special Education Director's unavailability. The new prehearing conference and hearing dates are as follows:

Prehearing Conference:	March 14, 2016 at 10:00 a.m.
Due Process Hearing:	March 22, 23, 24, and 28, 2016 at 9:00 a.m., with the exception of the first day of hearing which shall begin at 9:30 a.m., and March 28, on which day the hearing shall begin at 1:30 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

IT IS SO ORDERED.

DATE: March 4, 2016

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Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings