BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MILPITAS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025030762

ORDER DENYING JOINT REQUEST FOR CONTINUANCE OF PREHEARING CONFERENCE AND DUE PROCESS HEARING

APRIL 23, 2025

On March 19, 2025, Parent on behalf of Student filed a request for due process hearing, called a complaint, with the Office of Administrative Hearings naming Milpitas Unified School District, called Milpitas. The Office of Administrative Hearings is called OAH. The prehearing conference is scheduled for April 25, 2025, at 10:00 a.m. and the due process hearing is scheduled to begin May 6, 2025.

On April 22, 2025, the parties filed a joint request to continue the prehearing conference and due process hearing. The parties allege they have engaged in settlement discussions and request a continuance for the purpose of informally

resolving this matter. The joint request to continue was not supported by declarations under penalty of perjury.

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 did not establish through declaration under penalty good cause for a continuance. Although judicial policy favors informal resolution of disputes, the parties' efforts to settle the dispute before the scheduled hearing does not constitute good cause for a continuance. Accordingly, the request is denied. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings