BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

CAPISTRANO UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2024110845

OAH CASE NUMBER 2024120812

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

APRIL 4, 2025

On April 2, 2025, Capistrano Unified School District filed with the Office of Administrative Hearings a request to continue the due process hearing in this matter from April 17, 2025, to June 10, 2025. Capistrano made its motion on grounds that its counsel of record suffered fractures of both femurs on February 10, 2025, continues to undergo ongoing daily rehabilitation and treatment, and will not be able to participate in a due process hearing at least through April 2025. Capistrano's counsel of record continues thereafter to be unavailable for hearing of this case until the second week of

June due to scheduled hearing dates in four cases filed before this case, in OAH Consolidated Case numbers 2024101054 and 2024070500, OAH Consolidated Case numbers 2024090768 and 2024070472, OAH Consolidated Case Numbers 2024120002 and 2024070914, and OAH Case number 2024100954.

On April 3, 2025, Student filed a notice of non-opposition.

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 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.

Capistrano's request for a continuance of the due process hearing is granted for good cause, based on the unavailability of Capistrano's attorney. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on May 30, 2025 at 3:00 PM.
DUE PROCESS HEARING will be held on June 10, 11, and 12, 2025.

The 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.



Robert G. Martin
Administrative Law Judge, Office of Administrative Hearings