BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025010823

ORDER GRANTING REQUEST FOR CONTINUANCE OF NON EXPEDITED CLAIMS AND SETTING DUE PROCESS HEARING

FEBRUARY 25, 2025

On February 25, 2025, an expedited due process hearing in the above matter was convened. During the non-expedited prehearing conference on February 24, 2025, Downey made a motion to continue the due process hearing based on the conflict with the expedited case. The motion was denied. The expedited hearing convened on February 25, 2025, and the undersigned revisited the motion. Parties were hearing on the record. Downey stated they no longer sought the continuance; however, reconsidered the original ruling given the need to finalize the current expedited hearing and issue a decision before reconvening for the non-expedited portion of the hearing.

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).)

Good cause is found to continue the due process hearing to allow the expedited due process hearing decision to be finalized and issued to the parties.

The original denial is reconsidered and the request is granted. All previously scheduled dates are vacated. The new dates are:

DUE PROCESS HEARING will be held on March 18, 19, and 20, 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.

Tiffany Gilmartin

Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings