BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT

v.

SAUGUS UNION SCHOOL DISTRICT

OAH CASE NUMBER 2025060318

ORDER DENYING REQUEST FOR CONTINUANCE

JUNE 19, 2025

On June 16, 2025, Parents on behalf of Student filed a request to continue the expedited due process hearing with the Office of Administrative Hearings, known as OAH. On June 19, 2025, Saugus Union School District filed a non-opposition to the request.

Student contends the hearing should be continued to allow Student additional time to retain counsel to represent his interests in this matter and to allow further investigation of the facts of the case.

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).)

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation

of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request and is entitled to receive an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).) An expedited due process hearing before OAH must occur within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2).) The procedural right to an expedited due process hearing is mandatory and does not authorize OAH to make exceptions or grant continuances of expedited matters. (*Ibid.*) A matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, if the student withdraws the issues in the complaint that triggered the expedited hearing, or if the student elects to challenge the change of placement under title 20, section 1415, subdivision (b)(6)(A) and not subdivision (k). (*Molina v. Bd. of Educ. of Los Lunas Schools* (D.N.M. 2016) 157 F.Supp.3d 1064, 1068-1071.)

Student has not established good cause to continue the due process hearing. Student seeks to vacate the expedited hearing dates even though issues raised in the complaint are subject to an expedited time frame. Student alleges that Saugus implemented a disciplinary change of placement by forcing him to eat lunch alone in an office due to disability-related behavior incidents and seeks to have a manifestation determination review of all past disciplinary actions. Further, the motion to continue states that Student has been removed from school "pending resolution" of this matter. At the close of the due process complaint, Parents reported that they are "prepared to present evidence, call witnesses, and fully litigate this matter." Despite this, Parents now assert that they need a continuance to retain counsel and review evidence.

A continuance is not available and would be inappropriate. Once issues justifying an expedited hearing are raised, the expedited hearing time frame applies. There are no exceptions. Accordingly, the motion to continue the hearing dates must be denied. The

matter must proceed to expedited hearing unless Student withdraws the issues in the complaint that triggered the expedited hearing or informs Saugus and OAH that he has elected to challenge the change of placement under title 20, section 1415, subdivision (b)(6)(A) and not subdivision (k). Parent may also withdraw the complaint without prejudice and may later refile the action whether or not counsel has been retained.

The request is denied. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED.

Chris Butchko

Chris Butchko
Administrative Law Judge
Office of Administrative Hearings