BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024110445

ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING MOTION TO CONTINUE PREHEARING CONFERENCE AND HEARING, AND DENYING MOTION TO QUASH SUBPOENA, AS MOOT

FEBRUARY 21, 2025

On February 21, 2025, Administrative Law Judge Clifford H. Woosley, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Alyssa Masterson appeared on behalf of Student. Attorney Andrea Moos appeared on behalf of Capistrano Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

CAPISTRANO UNIFIED SCHOOL DISTRICT'S MOTION TO CONTINUE

The hearing is presently scheduled for March 4, 5, and 6, 2025. On February 18, 2025, Capistrano Unified filed a motion to continue the hearing because its attorney is on medical leave until the end of March 2025. Student did not respond to the motion. However, Capistrano Unified's motion was discussed at the PHC.

APPLICABLE LAW

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. (Ed. Code, § 56505, subd. (f)(3); 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; or whether the interests of justice are served.

DISCUSSION

Capistrano Unified seeks a continuance of the hearing to May 13, 14, and 15, 2025, because its attorney is on medical leave from February 10 to March 31, 2025. Capistrano Unified states that its attorney's calendar is full, every week, with hearings in other due process proceedings, after his return in April 2025. The first available date on its attorney's calendar is May 13, 2025, and, therefore, this matter's hearing should be continued.

The question on a motion for continuance is what conflicts with the presently scheduled hearing date. For example, is a necessary witness legitimately unavailable, or was a hearing set on dates when a party had been previously scheduled to be in another city, making a presentation? Here, the presently scheduled hearing dates conflict with Capistrano Unified's attorney's medical leave. Counsel's hearing calendar, after his return, does not demonstrate good cause for continuing the hearing two-and-half months. Also, this matter was filed on November 14, 2025. A continuance to May 13, 2025, would mean the hearing would begin six months after filing.

Capistrano Unified demonstrated good cause for a continuance because of its attorney's medical leave. But Capistrano Unified failed to demonstrate good cause to continue the hearing to mid-May 2025. A reasonable continuance, to allow counsel to return from medical leave and prepare for hearing, would be April 2025. Student's counsel is on a prepaid vacation from early April through April 25, 2025. Therefore, this matter will be continued to April 29, 2025.

The motion to continue is granted. However, the parties are on notice that this case will have been pending for five months by the time it proceeds to hearing. Accordingly, further continuances will be viewed unfavorably. All dates are vacated. This matter will be set as follows:

PREHEARING CONFERENCE will be held on April 21, 2025, at 3:00 PM.

DUE PROCESS HEARING will be held on April 29, 30, and May 1, 2025.

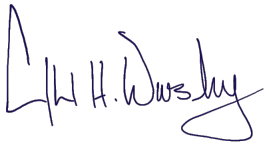
The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why it was not timely filed.

CAPISTRANO UNIFIED'S MOTION TO QUASH SUBPOENA DUCES TECUM IS DENIED, AS MOOT

On February 5, 2025, Student issued and served a subpoena duces tecum upon Capistrano Unified, seeking records as described in the attached Addendum, and specifying production of the records on the first day of hearing, March 4, 2025. On February 19, 2025, Capistrano Unified filed a motion to quash the subpoena. On February 21, 2025, Student filed a response to the motion to quash.

Student recognized that a new subpoena duces tecum will have to be reissued because of the hearing continuance, and withdrew the subpoena duces tecum. Since the subpoena was withdrawn, Capistrano Unified's motion to quash is dismissed, as moot.

IT IS SO ORDERED.



Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings