BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT

v.

MOUNTAIN VIEW LOS ALTOS HIGH SCHOOL DISTRICT

OAH CASE NUMBER 2026031244

ORDER GRANTING REQUEST FOR SECOND CONTINUANCE AND SETTING DATES

MAY 21, 2026

On May 15, 2026, Parent on behalf of Student filed a request to continue the due process hearing with the Office of Administrative Hearings, known as OAH. On May 21, 2026, Mountain View Los Altos High School District filed in opposition to the request.

Student contends the hearing should be continued to allow time for Parent to retain counsel. Mountain View Los Altos contends the hearing should not be continued because Student has not been diligent in attempting to retain counsel. OAH previously continued this matter by order dated April 28, 2026, which granted the parties' request to conduct a mediation. That order set the prehearing conference for May 29, 2026, with the hearing starting on June 9, 2026. Mediation took place on May 13, 2026.

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).)

Student established good cause to continue the due process hearing. Student filed this action without the assistance of counsel. Student attended the mediation without counsel. Prior to the mediation, Student emailed Mountain View Los Altos on May 12, 2026, asking it to agree to continue the due process hearing to allow Student an opportunity to retain counsel. Mountain View Los Altos responded that it would discuss the request with Student following the mediation if the matter did not settle. Student then filed this request for continuance three days later. A party's need to retain counsel and counsel's need for sufficient time to prepare for hearing constitutes good cause for a continuance. Mountain View Los Altos argues Student's delay in retaining counsel negates that good cause for a further continuance.

This matter was filed on March 27, 2026. Student had begun the process of retaining counsel around that time. Mountain View Los Altos' counsel's declaration in opposition to the motion states that she was contacted by an attorney sometime in April or May who had not yet agreed to represent Student. Student's motion represents that the attorney declined to represent her "suddenly," which Mountain View Los Altos disputes. There is no factual dispute that Student did begin the process of securing an attorney to represent her, Mountain View Los Altos was aware of that fact, and it told Student on May 12, 2026, it would discuss a continuance to allow Student to retain counsel if mediation was not successful in resolving the case.

Neither party reports what occurred between the mediation and the filing of this motion three days later. Mountain View Los Altos argues that Student has not been diligent in attempting to retain counsel, arguing that Student could have done so at any time between April 1, 2026, and May 12, 2026, and that there was still "nearly a month" between the latter date and the June 9, 2026 start of hearing to retain counsel. Mountain View Los Altos argues that delay will prejudice Student by delaying remedy, if

she is successful at hearing, until after the start of his post-secondary schooling. Further, it argues Student's proposed dates place the start of hearing during the first week of its 2026-2027 school year, when staff should be focusing on students and not attending a hearing. Mountain View Los Altos asks, if the continuance is granted, the hearing date be set the week after the dates requested by Student, and notes that "to ensure a fair hearing, it should not be set during the District's summer recess," when there are no students on whom staff should be focusing.

Student has been sufficiently diligent in attempting to retain counsel. Parent had identified counsel and begun the process of securing counsel, who had proceeded to the point of contacting Mountain View Los Altos about the matter. At some point between April 1, 2026, and May 12, 2026, Parent and counsel were unable to finalize representation. Parent informed Mountain View Los Altos of the need to find new representation and it told Parent it would discuss the issue if mediation was unsuccessful, essentially telling Parent to put off finding new counsel until after the mediation. Parent filed this motion three days later. Regardless of when the representation agreement failed, Parent has not unreasonably delayed seeking to find a new lawyer. Contrary to Mountain View Los Altos' assertion, there is not sufficient time to retain new counsel and for that counsel to prepare for hearing between May 15, 2026, and the May 29, 2026 prehearing conference.

Mountain View Los Altos' assertion that Student will be prejudiced by the delay is not its issue to raise, and its objection to the proposed dates for hearing is self-contradictory. Its assertion that California Education Code section 56507 entitles it to a continuance if notified less than 10 days before hearing that Student will be represented by counsel may constitute grounds for a continuance, but it is no basis for denying Student's motion.

No grounds exist to modify Student's requested dates for hearing. Mountain View Los Altos could have contacted Student to agree to different dates for the continued hearing. Mountain View Los Altos may seek a continuance of those dates if grounds to do so exist, but Student's request to continue will be granted. The new dates are:

PREHEARING CONFERENCE will be held on Monday, August 3, 2026, at 3:00 PM. OAH only holds prehearing conferences on Mondays and Fridays, and assumes Student mistakenly requested a Tuesday prehearing conference.

DUE PROCESS HEARING will be held on Tuesday, August 11, 2026, through Thursday, August 13, 2026.

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.

Chris Butchko

Chris Butchko
Administrative Law Judge
Office of Administrative Hearings