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 HEARING

JULY 2, 2025

On June 26, 2025, Student filed a motion to continue the consolidated due process hearing with the Office of Administrative Hearings, OAH. On June 27, 2025, Capistrano Unified School District filed a non-opposition to Student's motion.

Student filed his due process hearing request on November 25, 2024, and Capistrano filed its due process hearing request on December 23, 2024. OAH initially set the matter for hearing on January 14, 2025. The matter was subsequently continued twice for good cause, first to schedule mediation requested by the parties, and again due to the unavailability of Capistrano's attorney due to a significant personal injury. The hearing date was extended a third time to July 15, 2025, after OAH granted

Student's motion to amend his due process hearing request. OAH's May 29, 2025 Order granting Student's motion to amend noted the length of time the matter had been pending and stated OAH would strongly disfavor any further continuances.

Student contends the matter should be continued because Student's attorney has a prescheduled and prepaid vacation from July 1-18, 2025, which conflicts with the currently scheduled hearing dates of July 15-17, 2025, that were unilaterally set by OAH in its May 29, 2025 scheduling order. Student requests the hearing be continued to August 26-28, 2025, because the parties met and conferred and agreed to continue the hearing dates to those dates, and Student's expert witnesses are available on those dates.

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 existing July 15-17, 2025 hearing dates due to the unavailability of his attorney through July 18, 2025. Student did not establish good cause to continue the hearing dates by six weeks.

The request is granted, but not for the length of time requested. The new dates are:

PREHEARING CONFERENCE will be held on July 28, 2025, at 1:00 PM.

DUE PROCESS HEARING will be held on August 5, 6 and 7, 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