BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

MILPITAS UNIFIED SCHOOL DISTRICT,

and

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2025060681

OAH CASE NUMBER 2025030762

ORDER GRANTING REQUEST FOR CONTINUANCE OF PREHEARING CONFERENCE AND DUE PROCESS HEARING

SEPTEMBER 3, 2025

On March 19, 2025, Parent on behalf of Student filed a due process hearing request with the Office of Administrative Hearings, OAH, naming Milpitas Unified School District, called Milpitas. On June 17, 2025, Milpitas filed a due process hearing request naming Student. On June 17, 2025, Milpitas filed a Motion to Consolidate the cases. On June 19, 2025, OAH granted the Motion to Consolidate and to continue the due process hearing to August 26, through 28, 2025.

On August 18, 2025, OAH held a prehearing conference. Student orally requested a continuance of the due process hearing due to Parent having a scheduling

conflict with another court hearing. OAH granted the request for good cause based upon Parent's unavailability. The prehearing conference was scheduled for mutually convenient dates of September 5, 2025, and the due process hearing was scheduled for September 16 through 18, 2025.

On August 22, 2025, Milpitas filed a motion to continue the due process hearing based upon unavailability of counsel for a scheduled surgery, and the unavailability of an essential witness for family medical caretaking needs. Milpitas requested a one-week continuation of the current hearing dates.

Student has not contested the continuance request.

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).)

Milpitas established good cause to continue the due process hearing. Both its counsel and its director, an essential witness, are unavailable due to medical needs and family medical caretaking needs.

The request is granted. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on September 12, 2025, at 10:00 a.m.

DUE PROCESS HEARING will be held on September 23, through 25, 2025.

The mediation, 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.

Deborah Myers Cregar

Deborah Myers-Cregar
Administrative Law Judge
Office of Administrative Hearings