BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

ATASCADERO UNIFIED SCHOOL DISTRICT AND SAN LUIS OBISPO COUNTY OFFICE OF EDUCATION,

OAH CASE NUMBER 2025010625

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

FEBRUARY 14, 2025

On February 10, 2025, the San Luis Obispo County Office of Education filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. On February 12, 2025, Student filed an opposition to the request. OAH has not received a response to the request from Atascadero.

The due process hearing is now calendared for March 4, 5, and 6. 2025. The County Office asserts that its counsel cannot proceed with this matter until May 20

through May 22, 2025, due to his representation of clients in five named OAH due process hearings in five cases filed earlier than this one.

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).)

The County Office has established good cause to continue the due process hearing, though not for the length of time requested. As Student points out, counsel for the County Office does not have conflicts in the middle of April that would prevent him from conducting the hearing. The requested dates in late May would postpone the matter for more than two months. Student is at home and is not being educated in the meantime.

PREHEARING CONFERENCE will be held on March 28, 2025, at 10:00 AM.

DUE PROCESS HEARING will be held on April 8, 9, and 10, 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.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings