BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

V.

DEL MAR UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2025050384

ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE GRANTING CONTINUANCE OF THE PREHEARING CONFERENCE AND DUE PROCESS HEARING

AUGUST 8, 2025

On August 8, 2025, Administrative Law Judge Sabrina Kong, 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.

Parent appeared on Student's behalf. Attorney Summer D'Alessandro appeared on Del Mar Union School District's, called Del Mar, behalf. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order.

Student filed the due process complaint on May 9, 2025. OAH granted one hearing continuance and Student's motion to amend which set the hearing for the week of August 19, 2025, the same hearing dates previously requested by Del Mar in June 2025.

On August 1, 2025, Del Mar filed a second motion to continue the hearing to the week of September 30, 2025. Attorney D'Alessandro represented that she and Attorney Jasey Mahon, have an earlier filed consolidated case also set for hearing the week of August 19, 2025, and multiple cases set for hearing making them unavailable until the week of September 30, 2025. Del Mar's motion is supported by a declaration under the penalty of perjury by Attorney D'Alessandro.

On the same day, Student filed an opposition to the motion for continuance arguing the August 19, 2025 hearing week had been previously requested by Del Mar so the hearing should proceed as scheduled. Student did not wish to delay the hearing to the week of September 30, 2025, stating that a lengthy hearing continuance would prejudice and delay the services she required.

At the PHC, Parent reiterated she wanted the hearing to proceed as soon as possible. Attorney D'Alessandro confirmed at the PHC the earlier filed consolidated case will proceed to a six-day hearing starting the week of August 19, 2025, and the case set for hearing the week of August 26, 2025, settled. Only the consolidated case set for hearing the week of August 19, 2025, was filed before this case. Although

Attorney D'Alessandro has a hearing set for the week of September 3, 2025, in OAH case number 2025060320, that case was filed later than the instant case.

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;
- whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance.

(Cal. Rules of Court, rule 3.1332(d).)

Del Mar demonstrated good cause for a brief hearing continuance to the week of September 3, 2025, in this case. Based on discussions at the PHC, the ALJ granted a brief continuance of the PHC and the hearing as follows:

PHC, HEARING DATES, TIMES, AND LOCATION

The PHC is continued to August 25, 2025, at 10:00 AM.

The hearing will take place on September 3 and 4, 2025, and continue day to day at the discretion of the ALJ. The hearing shall begin at 9:30 AM each day and generally end at 3:30 PM, unless otherwise ordered. PHC statements and motions are due to OAH no later than three business days before the PHC or with a showing of good cause why it was not timely filed.

PARTICIPANT INFORMATION SHEETS FOR THE PHC AND DUE PROCESS HEARING MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

PHC AND HEARING LOCATION

OAH is authorized to conduct PHC and due process hearings by videoconference or telephone. (Cal. Code Regs., tit. 5, § 3082, subd. (g).) OAH will conduct the PHC and due process hearing by videoconference using the Zoom application. Unless otherwise ordered, participants are required to appear by videoconference using computer or device with video capability and Zoom.

The parties shall immediately notify all potential witnesses of the hearing dates and shall subpoena witnesses, if necessary, to ensure that the witnesses will appear to

testify. A party's failure to notify or subpoena a witness to testify will not be considered good cause to continue the hearing. Instructions for issuing and responding to subpoenas and optional forms for subpoenas can be found on the website at https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Subpoenas?search=special%20education%20subpoena.

ORDER INCLUDES ALL RULINGS

This order includes all rulings made at the PHC.

IT IS SO ORDERED.

Sabrina Kong

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings