

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENT ON BEHALF OF STUDENT,

v.

WASHINGTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026040565

ORDER FOLLOWING PREHEARING CONFERENCE  
CONTINUING DUE PROCESS HEARING

JULY 3, 2026

On July 3, 2026, Administrative Law Judge Jennifer Kelly, 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.

Attorney Jennifer Settani-Stephens appeared on behalf of Student. Attorney Nicole Mirkazami appeared on behalf of Washington Unified School District, called Washington Unified. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

## REQUEST TO CONTINUE DUE PROCESS HEARING

On April 9, 2026, Parent on behalf of Student filed a request for due process hearing, called a complaint, with OAH, naming Washington Unified. On April 13, 2026, OAH issued a scheduling order and set the PHC for May 18, 2026, at 3:00 PM, and the due process hearing for May 27, through 28, 2026.

On May 14, 2026, the parties filed a joint request to schedule mediation on June 1, 2026. The parties represented they agreed the due process hearing should be continued to allow them to participate in mediation, but could not agree upon new hearing dates.

On May 14, 2026, OAH issued an order denying the request for mediation because the proposed date was after the scheduled prehearing conference and due process hearing dates.

On May 18, 2026, Student filed a motion to continue the due process hearing. The motion was supported by a declaration by attorney Settani-Stephens. Student requested a continuance because of her attorney's excusable unavailability due to her participation in another due process hearing in another state.

At the PHC, the parties indicated their continued willingness to participate in mediation on June 9, 2026. The parties also agreed to a continuance of the due process hearing.

On May 18, 2026, OAH issued an order following PHC scheduling mediation and continuing the due process hearing. OAH scheduled the mediation for June 9, 2026, and continued the due process hearing to July 14, through 16, 2026.

On July 2, 2026, Washington Unified filed a notice of unavailability of witnesses and request for continuance. Washington Unified's continuance request was supported by a declaration by its attorney of record. Washington Unified argued that four essential witnesses are unavailable for hearing the week of July 14, through 16, 2026, because of preplanned, prepaid vacations. Washington Unified requested a three-week continuance of the due process hearing to August 4, through 6, 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).)

Washington Unified did not file its continuance request three business days before the PHC. Washington Unified's attorney of record attested in her declaration and advised the ALJ at the PHC that she was unaware of the witnesses' unavailability until July 2, 2026, and filed the continuance request on Washington Unified's behalf that same day. Washington Unified established good cause for not timely filing its continuance request.

Washington Unified established good cause to continue the due process hearing based on the excusable unavailability of four essential witnesses due to preplanned, prepaid vacations. Student did not oppose the continuance request and indicated her availability for hearing on August 4, through 6, 2026. Accordingly, Washington Unified's request to continue the due process hearing is granted.

The ALJ discussed specific dates for the PHC and the due process hearing with the parties and agreement was reached as to the following schedule. All previously scheduled dates are vacated. The new dates are:

PHC will be held on July 27, 2026, at 10:00 AM.

DUE PROCESS HEARING will be held on August 4, through 6, 2026.

The PHC 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 ALJ. PHC 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.

## SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting [OAH Secure e-file](https://www.applications.dgs.ca.gov/oah/oahsftweb) at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

#### **FAILURE TO COMPLY**

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

## ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the PHC. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

*Jennifer Kelly*

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings