

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

EAST SIDE UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2026050528

ORDER FOLLOWING PREHEARING CONFERENCE
GRANTING DISTRICT'S REQUEST FOR CONTINUANCE

AUGUST 6, 2026

On August 3, 2026, Administrative Law Judge Ted Mann, Office of Administrative Hearings, called OAH, held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC.

Student's father, called Parent, as a self-represented party, appeared on behalf of Student. Krista Tidwell, Attorney at Law, appeared on behalf of East Side Union High School District. The PHC was recorded.

Parent requested that they be allowed to submit additional written argument within the three-day filing requirement that ended at the close of business, 5:00 PM, on

August 3, 2026, due to the prejudice Parent contended Student faced were a continuance granted. As such, Parent was permitted to file documents by the end of the day for consideration by the ALJ. Parent failed to file documents timely and instead requested an extension of time to submit his complete written opposition documents. Although Parent's repeated use of excuses regarding their inability to meet filing deadlines grows wearisome, the opposition was considered in full in order eliminate any due process concerns by Parent.

Based upon discussion with the parties, and the review and consideration of Student's oral and written opposition to East Side's request for continuance, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

East Side moved to continue the prehearing conference and due process hearing based on the unavailability of their special education director and special education coordinator due to their involvement in an earlier filed OAH matter that will proceed to hearing on the same dates as currently set for the instant matter.

The motion was timely filed three days prior to the prehearing conference. The motion was opposed on the grounds East Side did not provide good cause for a continuance, a continuance would prejudice Student by further delaying a hearing in the instant case, Student is entitled to stay put protections to preserve the status quo when an assessment may lead to a change in placement and a continuance would potentially moot Student's issues surrounding the modality of the assessment.

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.)

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).)

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).)

Here, the request for continuance is granted for good cause. East Side has shown good cause in the unavailability of two essential witnesses, one of whom is also East Side's chosen hearing representative and specifically knowledgeable about the instant case. This is East Side's first continuance request, and the length of continuance is reasonably short.

Student's objections to a continuance were unpersuasive. Student's case was filed on May 6, 2026, with the original hearing date set for June 23, 2026. However, complex issues surrounding Parent's standing to file have resulted in continuances to the current date for hearing of August 11, 2026. A further three-week continuance, given East Side's good cause, is not unreasonable nor prejudicial at this juncture. In fact, given continuing open issues regarding Student's and Parent's standing, the three-week

continuance will allow the resolution of the standing issues so that the hearing issues can be defined.

Student also asserts that stay put considerations extend beyond preserving Student's placement during the duration of the due process case and include a bar to an assessment that may result in a proposed change to Student's placement. Here, although an existing placement is preserved by stay put, the mere possibility that a proposed change of placement may arise from a completed assessment is at best speculative and also unsupported by statute or case law.

Student further asserts that a continuance would potentially moot Student's issues related to the modality of assessment. Once again, Student's argument is speculative. To date, despite East Side's best efforts over almost a year, Student has yet to sit for assessment, so the likelihood that an additional three-week continuance will change the situation appears unlikely. Additionally, even in the unlikely event the assessment were to proceed, Student would have the opportunity to address that occurrence either through amending their complaint or seeking other appropriate relief.

Lastly, Student has requested that any continuance be conditioned upon an order barring East Side from undertaking an assessment of Student prior to the conclusion of the due process matter. Consistent with the foregoing discussion of Student's objections to the continuance, such a conditioned order is unwarranted and unnecessary under the circumstances.

As such, the requested continuance is granted without condition, and all previously scheduled dates are vacated. The case shall proceed as follows:

PREHEARING CONFERENCE will be held on August 21, 2026, at 10:00 AM.

All other prehearing matters shall be addressed at the August 21, 2026 PHC. All prehearing motions must be filed three business days before the PHC.

DUE PROCESS HEARING will be held on September 1, through 3, 2026.

The hearing will be conducted via telephone or videoconference and shall begin at 9:30 AM and end at 3:30 PM on all days, unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses, if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement 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.

If a full and final written settlement agreement is reached after 5:00 PM the day before the 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. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received 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

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.

IT IS SO ORDERED.

Ted Mann

Ted Mann

Administrative Law Judge

Office of Administrative Hearings