

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
POWAY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2026040688

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

AUGUST 6, 2026

On August 3, 2026, Parent on behalf of Student filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. On August 4, 2026, Poway Unified School District, called Poway, opposed the request.

Poway filed a request for a due process hearing, called Complaint, on April 14, 2026. The parties jointly filed a request to schedule mediation and continue the due process hearing on April 21, 2026. OAH granted the first request for a continuance on April 22, 2026. On June 22, 2026, the parties jointly filed a motion for a second continuance. The continuance was granted by OAH on June 22, 2026, based on a

finding of good cause. The parties had engaged in mediation however Parents requested additional time to research Poway's proposed settlement offer as they were unrepresented. On August 3, 2026, Student filed a third request for continuance. While the motion states this is a joint motion, it is not signed by Poway and Poway filed an opposition. The motion incorrectly states that this is the first request to continue the matter. This is the third continuance requested.

Student contends the hearing should be continued because Student is scheduled for an Independent Educational Evaluation (IEE) on August 25, 2026. Student states that he was not previously able to obtain an IEE and that the IEE is necessary for a fair hearing. Poway contends the hearing should not be continued because Student delayed scheduling an IEE and had over four months to do so. Poway argues that it will be prejudiced should the hearing be delayed. Poway seeks a determination from OAH that Student is no longer eligible for special education and related services, and Poway may exit Student from special education without parental consent.

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).)

Student established good cause to continue the due process hearing. The sole issue in this matter is whether Poway may exit Student from special education and related services without parental consent. The IEE is relevant to the issue pled and will either corroborate or provide counter evidence to the Complaint. Student has been engaged in resolution of this matter as evidenced by the two prior continuances. Student must expeditiously move forward with the IEE and work with the evaluator to ensure that the evaluation is timely completed. The undersigned ALJ has concerns about whether sufficient time exists to obtain the report prior to the due process hearing. The parties should not expect additional continuances to be granted absent extraordinary circumstances.

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

PREHEARING CONFERENCE will be held on September 14, 2026, at 1:00 PM.

DUE PROCESS HEARING will be held on September 22, through September 24, 2026.

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall 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 or with a showing of good cause why the document was not timely filed.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness.

IT IS SO ORDERED.

Katherine Roe
Katherine Roe (Aug 6, 2026 13:06:17 PDT)

Katherine Roe

Administrative Law Judge

Office of Administrative Hearings