

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN MARCOS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026070477

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

AUGUST 10, 2026

On August 5, 2026, San Marcos Unified School District, called San Marcos filed a request to continue the due process hearing and schedule a mediation with the Office of Administrative Hearings, OAH. On August 10, 2026, Student opposed the request.

San Marcos contends the hearing should be continued to hold an agreed upon mediation. Further, San Marcos attorneys are unavailable August 25, through August 27, 2026, the dates currently schedule for hearing because they are concurrently scheduled to begin an earlier filed OAH hearing. San Marcos requested that the hearing be continued to September 29, through October 1, 2026. San Marcos provided OAH

with declarations regarding attorney unavailability August 25, through August 27, 2026, as well as email correspondence between San Marcos' attorneys and Student's parents establishing that Parents agreed to schedule an all-day mediation on August 21, 2026, but that Student did not agree to a continuance of the hearing. Student filed an opposition to the continuance but was silent in its opposition regarding San Marcos' request to schedule a mediation. Student contends that a delay in the hearing will delay the implementation of Student's Individualized Education Program, called IEP.

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).)

San Marcos has established good cause for a short continuance of the due process hearing. The unavailability of San Marcos' attorneys establishes good cause. Further, while Student was silent in its opposition about scheduling a mediation, the emails provided by San Marcos confirm Parents and San Marcos' agreement to hold an all-day mediation on August 21, 2026.

The request for continuance is granted, but not for the length of time requested. San Marcos has established good cause to continue the hearing for two weeks. No good cause was provided that the hearing should be delayed to September 29, 2026. The new dates are:

MEDIATION will be held on August 21, 2026, 9:00 AM to 4:30 PM.

PREHEARING CONFERENCE will be held on August 28, 2026, at 3:00 PM.

DUE PROCESS HEARING will be held on September 9 and 10, 2026.

The mediation, 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.

A handwritten signature in black ink, appearing to read 'Jessica Plitt', with a stylized, cursive script.

Jessica Plitt

Administrative Law Judge

Office of Administrative Hearings