

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT
OAH CASE NUMBER 2026050160

ORDER GRANTING REQUEST FOR CONTINUANCE AND
SETTING HEARING DATES

SEPTEMBER 25, 2026

On September 24, 2026, Capistrano Unified School District filed a request to continue the due process hearing with the Office of Administrative Hearings, known as OAH. Student filed a statement of non-opposition on September 25, 2026.

Capistrano contends the hearing should be continued because both counsel and its party representative are involved in an ongoing matter before OAH which takes priority over this matter. Capistrano represents in its motion that Student does not oppose the motion to continue the hearing. The motion seeks to continue the hearing from the currently scheduled dates of September 29 through October 1, 2026, to October 13 through 15, 2026.

This matter was previously continued by OAH on June 4, 2026, on the parties' joint motion to schedule mediation. The matter was again continued by OAH on August 12, 2026, on the parties' joint motion due to a date conflict with earlier-filed cases before OAH.

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).)

Capistrano established good cause to continue the due process hearing. Both counsel and the party representative are unavailable on the dates set for hearing due to another hearing which has extended into the dates set for this matter. The conflict in hearing dates was unforeseen at the time the prehearing conference and hearing dates were set in this matter, and counsel for Capistrano notified OAH of the possibility of conflict at the prehearing conference for this matter. Once the conflict moved from unforeseen to possible to actual, Capistrano promptly notified OAH and moved for a continuance. The unavailability of counsel and party representative constitutes good cause for a continuance where the conflict is not caused by neglect or overscheduling by counsel. Although this would be a third continuance in this matter and requires an elevated showing of good cause, the requested continuance is brief and the motion is not opposed by Student. After weighing the circumstances, good cause exists to grant the motion.

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

DUE PROCESS HEARING will be held on Tuesday, October 13, 2026, through Thursday, October 15, 2026.

The 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.

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.

Chris Butchko

Chris Butchko

Administrative Law Judge

Office of Administrative Hearings