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 2026090340

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND HEARING

OCTOBER 16, 2026

On September 9, 2026, Student filed a request for a due process hearing with the Office of Administrative Hearings, called OAH, naming Capistrano Unified School District, called Capistrano. OAH issued a scheduling order setting the prehearing conference on October 19, 2026, and hearing on October 27, 28, and 29, 2026.

On October 14, 2026, Capistrano filed a request for continuance of hearing to January 2026, supported by a sworn declaration by Capistrano's counsel, based on unavailability of Capistrano and its counsel due to a due process hearing in an earlier filed matter set for hearing on the same dates as this matter. Capistrano argued that its next availability for hearing is January 2026, based on the unavailability of Capistrano or

its counsel due to multiple due process hearings, preplanned vacations of Capistrano's counsel, and Capistrano breaks, through November and December 2026. Capistrano's motion was not timely filed three business days prior to the prehearing conference. However, the parties were in the process of negotiating continuance dates through October 13, 2026, due to the parties' shared desire to mediate this matter, excusing the late filing of the continuance motion.

On October 15, 2026, Student filed an opposition to Capistrano's motion contending delay of hearing to January 2026 would prejudice Student as Student is currently without special education services.

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).)

Earlier filed OAH cases proceed to hearing before later filed cases when hearing dates conflict. Capistrano established its unavailability or its counsel's unavailability based on due process hearings for previously filed OAH cases through November 5, 2026. However, the due process hearing for which Capistrano asserts its unavailability for hearing on November 10 and 12, 2026, concerned a case filed after the present matter. Hearings will not be held on November 11, 2026, in observance of Veteran's Day. Accordingly, Capistrano's request for a brief continuance is granted due to unavailability of Capistrano or its counsel through November 5, 2026, but not for the length of time requested. The new dates are:

PREHEARING CONFERENCE will be held on November 2, 2026, at 1:00 PM.

DUE PROCESS HEARING will be held on November 10, and 12, 2026.

Student's claim of prejudice is rejected as unpersuasive given only a brief continuance in the matter. This order does not preclude the parties from filing a joint request for mediation, should the parties agree on dates.

The 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.

Deborah Myers Cregar

Deborah Myers-Cregar
Administrative Law Judge
Office of Administrative Hearings