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 2025010272

ORDER GRANTING RECONSIDERATION AND DENYING REQUEST FOR CONTINUANCE

APRIL 23, 2025

On April 4, 2025, the parties jointly filed a request to continue due process hearing to the week of June 3-5, 2025, due to (1) Student's attorney's scheduling conflict with other OAH cases and (2) the availability of Student's witness, Dr. Lisa Grajewski, during the week of June 3-5, 2025. This request is deemed a motion for reconsideration, as it reiterates the parties' joint request made on March 28, 2025.

Specifically, on March 28, 2025, the parties jointly filed a request to continue due process hearing to the week of June 3-5, 2025, due to (1) Student's attorney's scheduling conflict with other OAH cases and (2) the availability of Student's witness, Dr. Lisa Grajewski, during the week of June 3-5, 2025. OAH granted continuance, but not

for the length of time requested. Specifically, on March 28, 2025, OAH continued hearing to the week of May 20-22, 2025. OAH cautioned the parties that any further continuance request would be denied absent a showing of extraordinary good cause. The present motion to continue reiterates the parties' request that hearing be set for June 3-5, 2025.

MOTION FOR RECONSIDERATION

OAH will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time, generally within ten days. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

In his declaration supporting the parties' initial request for continuance, Student's attorney, Mr. Adams, described his scheduling conflict with OAH Case No. 2025010358 during the week of May 20-22, 2025. That case, however, was filed later than the present one. As a result, OAH did not find good cause to continue the present case past May 20-22, 2025, and thus scheduled the present case for that week.

Student's motion for reconsideration was filed within ten days of OAH's ruling on the initial request for continuance. In his declaration supporting the renewed request for continuance, Mr. Adams now states that he will be involved in earlier-filed OAH Case No. 2024100954 during the week of May 20-22, 2025, and that the earlier-filed case should take scheduling precedence over the present case. The parties ask that the

present case be continued to the week of June 3-5, 2025, to accommodate the availability of Student's witness, Dr. Lisa Grajewski.

Student's counsel's involvement with an earlier-filed OAH case during the week of May 20-22, 2025, is a new fact. The request is reconsidered below.

MOTION TO CONTINUE

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Upon reconsideration, the parties have not established extraordinarily good cause to continue the due process hearing. This case was brought at the behest of Student, and has been pending since January 10, 2025. OAH has already granted amendment of Student's complaint twice, each time issuing a new scheduling order with new, later dates. OAH has also since granted the parties' March 28, 2025, initial request to continue, albeit not for the length of time requested.

Student's original complaint, amended complaint, and second amended complaint all listed the names of three attorneys for Student on this case: Tim Adams, Andrea Blair, and Madeline Knutson. Madeline Knutson, and not Tim Adams, represented Student at the March 21, 2025, prehearing conference. While Student is

entitled to legal counsel of Student's choice, Student has not provided any authority to suggest that all members of Student's legal team must be available at all times during hearing. While Mr. Adams may be unavailable on the dates currently set for hearing due to scheduling conflicts with an earlier-filed OAH case, Student has not demonstrated the unavailability of Student's other attorneys.

Further, Student has not persuasively established that Dr. Grajewski or other witnesses would be unavailable for the present dates set for hearing, or that Dr. Grajewski's attendance is necessary on all hearing days.

The request is denied. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED.

Claire Yazigi

Claire Yazigi
Administrative Law Judge
Office of Administrative Hearings