BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

WASHINGTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024110089

ORDER GRANTING REQUEST FOR CONTINUANCE OF DUE PROCESS HEARING

JANUARY 21, 2025

On January 17, 2025, Washington Unified School District filed a request to continue the due process hearing, and supporting declaration, with the Office of Administrative Hearings, called OAH. On January 17, 2025, Student filed an opposition and supplemental opposition to Washington's request.

Washington requested a one-day continuance of the due process hearing in this case, which is presently set to start January 22, 2025. The request was made on grounds that Washington learned on January 13, 2025, after the prehearing conference in this matter, that the ongoing hearing in a different case, OAH Case no. 2024070468, would be resumed on January 22, 2025, and proceed for that one day. A scheduling conflict

exists because Washington's lead counsel in this case, Nicole Mirkazemi, is also lead counsel in OAH Case no. 2024070468.

Student opposed Washington's request for a continuance on the following grounds:

1. Washington did not timely notify Student and OAH of the scheduling conflict.
2. Another attorney from attorney Mirkazemi's office could represent Washington in this matter.
3. A continuance would prejudice Student by requiring Student to undertake the effort and expense to issue new subpoenas to 25 district employees whom Student previously subpoenaed to produce records, and testify, on the originally scheduled first day of hearing, January 22, 2025.

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).)

Washington established good cause to continue the due process hearing for one day. Washington's attorney immediately contacted Student's attorney after learning the ongoing hearing in OAH Case no. 2024070468 would proceed on January 22, 2025, and timely-filed its motion after learning Student would not agree to a continuance. As the lead hearing attorney for Washington in this matter, attorney Mirkazemi has reviewed and evaluated the file, drafted examinations and cross-examinations, prepared district witnesses, and corresponded with opposing counsel. A district is generally entitled to its choice of lead attorney, barring undue prejudice to the student. Here, the prejudice Washington of having to proceed with a new lead attorney would outweigh any prejudice to Student resulting from a one-day continuance. In filings by the parties addressing Washington's motion to quash Student's 25 subpoenas to district employees to produce records and testify, Student has indicated that Student has withdrawn the

requests for documents based on Washington's representation that it has produced all responsive documents, and Washington has stated it does not object to producing the served District employees who are relevant for hearing. OAH's January 14, 2024 Order Following Prehearing for Hearing by videoconference ruled that the parties would address at hearing Washington's motion to quash Student subpoenas of certain employees, and motion in limine to exclude testimony of certain employees, made on grounds of lack of relevant knowledge, or on grounds that their testimony would be duplicative or cumulative.

Washington's request for a one-day continuance is granted. The start of hearing is continued from January 22, 2025 to January 23, 2025.

IT IS SO ORDERED.



Robert G. Martin
Administrative Law Judge
Office of Administrative Hearings