BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

PALM SPRINGS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025060210

ORDER GRANTING REQUEST FOR CONTINUANCE, SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING, DENYING MOTION TO BIFURCATE AS MOOT, AND DENYING REQUEST FOR OFFICIAL NOTICE WITHOUT PREJUDICE

JULY 2, 2025

On June 23, 2025, Palm Springs Unified School District filed a request to continue the due process hearing with the Office of Administrative Hearings, called OAH. Palm Springs's motion also included an alternative motion to bifurcate the hearing regarding eligibility and then remedies, and requested OAH take official notice of the records in two prior cases Palm Springs filed, OAH Case Numbers 2024060519 and

2025030012, related to Parent's earlier disagreements with Palm Springs's assessments and requests for independent educational evaluations at public expense.

On June 24, 2025, Student opposed the request for continuance or, in the alternative, bifurcation. Student's opposition did not address the request for official notice of the records of prior cases. Student's opposition included a request to start hearing late on the first date currently scheduled for hearing, July 22, 2025, to accommodate Student's attorney's scheduled oral argument in a federal district court matter earlier that morning.

Palm Springs contends the hearing should be continued because Palm Springs's attorney is scheduled to be on a pre-planned, pre-paid vacation out of state starting the evening of July 25, 2025, and Student's attorney estimated this case will require six days to hear and the hearing therefore cannot be completed before the attorney departs. Palm Springs proposed several start dates for hearing on which Palm Springs's attorney is available for hearing after she returns from vacation. In meeting and conferring with Student's attorney regarding a continuance, Palm Springs's attorney learned Student's attorney intended to request during the July 14, 2025 prehearing conference to start the hearing at 10:30 a.m. on July 22, 2025, due to another court appearance Student's attorney has earlier that morning. Palm Springs proposes as an alternative to a continuance of the start date to begin the hearing on July 22, 2025, and if the hearing is not completed by early afternoon on Friday, July 25, 2025, to then continue the hearing to resume upon her return after August 3, 2025.

Student opposes the continuance of even two weeks, asserting it would prejudice Student who desires a ruling regarding his eligibility before the start of the 2025-2026 school year. Student also opposes a continuance to August 5, 2025, because Student's attorney is scheduled to start a hearing that same date in another, earlier-filed OAH

case. But Student requests the hearing start late on July 22, 2025, to accommodate Student's attorney's other conflicting court appearance, and wants the expert witness Student has already coordinated to testify on July 30 or 31, 2025, to proceed without inconvenience.

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).)

Palm Springs established good cause to continue the due process hearing three weeks to accommodate Palm Springs's attorney's excusable unavailability for vacation, avoid litigating this case piecemeal over time, and avoid conflict with Student's attorney's federal court appearance as well as due process hearing in an earlier-filed OAH case.

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

PREHEARING CONFERENCE will be held on July 25, 2025, at 10:00 AM.

DUE PROCESS HEARING will be held on August 12, 13, and 14, 2025.

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.

Palm Springs moved to bifurcate the hearing to first hold hearing regarding Student's eligibility for special education and related services during the week originally set for hearing and defer hearing regarding any of Student's requested remedies until after Palm Springs's attorney's vacation, or even after a ruling on the initial threshold question of eligibility. OAH typically does not bifurcate hearings. But additionally in these circumstances, with the hearing continued, Palm Springs's motion in the alternative is denied as moot.

Finally, while OAH may take official notice of the records of its own cases in accordance with Evidence Code section 452, subdivision (d), this motion is not ripe and is denied without prejudice. Palm Springs may file a separate motion requesting OAH take official notice of the records in OAH Case Numbers 2024060519 and 2025030012 not less than three business days before the prehearing conference if the records of the prior OAH cases will be relevant to Palm Springs's defense of any remaining issues for hearing.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings