BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENTS ON BEHALF OF STUDENT,

and

NEWPORT-MESA UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2025070488

OAH CASE NUMBER 2025040554

ORDER FOLLOWING PREHEARING CONFERENCE

GRANTING REQUEST FOR CONTINUANCE

NOVEMBER 10, 2025

On November 7, 2025, Administrative Law Judge Alexa Hohensee, Office of Administrative Hearings held a prehearing conference by videoconference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC.

Attorney Damian Fragoso appeared on behalf of Student. Attorney Cynthia Yount appeared on behalf of Newport-Mesa Unified School District, called Newport-Mesa. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

The consolidated hearing in this matter is scheduled to take place November 18, through 20, 2025. On November 4, 2025, Newport-Mesa moved for the hearing to go dark on November 18, 2025, because its attorney is currently appearing in another due process hearing for OAH case number 2025030050, which is scheduled to go through November 18, 2025. Student did not file an opposition.

The motion was timely filed three days prior to the prehearing conference.

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 for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).)

The OAH calendar showed the due process hearing in which Newport-Mesa's attorney is engaged is scheduled to continue through November 19, 2025. In addition, Newport-Mesa is closed the week of November 24, 2025, for Thanksgiving break, and witnesses are unavailable that week.

Accordingly, this matter is continued to December 2, through 4, 2025, which were dates mutually agreed to by the parties at the PHC.

The request for continuance is granted for good cause based upon the unavailability of Newport Mesa's attorney. All previously scheduled dates are vacated. The consolidated matter will proceed as follows:

PREHEARING CONFERENCE will be held on November 17, 2025, at 3:00 PM.

The PHC will be conducted by videoconference. All other prehearing matters will be addressed at the November 17, 2025 PHC. All prehearing motions must be filed three business days before the PHC.

DUE PROCESS HEARING will be held December 2, through 4, 2025.

The hearing will be conducted by videoconference and will begin at 9:30 AM and end at 3:30 PM on all days, unless otherwise ordered. The hearing will continue day to day at the discretion of the ALJ.

The parties must immediately notify all potential witnesses of the hearing dates, and must subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

The parties must immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement within five days of the scheduled start of the due process hearing, the parties must also inform OAH of the settlement by telephone at (916) 263-0880.

If a full and final written settlement agreement is reached after 5:00 PM the day before the hearing, the parties must leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at https://www.applications.dgs.ca.gov/oah/oahsftweb.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties must provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the PHC. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings