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 2024051092

ORDER FOLLOWING PREHEARING CONFERENCE GRANTING REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

OCTOBER 4, 2024

On October 4, 2024, Administrative Law Judge Rommel P. Cruz, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Tim Adams appeared on behalf of Student. Attorney Cynthia Yount appeared on behalf of Capistrano Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

CONTINUANCE

On October 4, 2024, the parties filed a joint request to continue the due process hearing based on the unavailability of the parties' attorneys on the dates currently set for hearing in this matter. Student's lead counsel and Capistrano Unified's lead counsel are currently engaged in another due process hearing in OAH case number 2024030862, which is scheduled for hearing on the same dates as this matter. The parties requested to continue this matter to December 10, 11, and 12, 2024.

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. OAH considers all relevant facts and circumstances in determining whether good cause exists to grant an extension. (See Cal. Rules of Court, rule 3.1332(d).)

The parties established good cause to continue the hearing based on the unavailability of their attorneys. Therefore, the request for continuance is granted. All dates are vacated.

However, the parties failed to establish good cause for the length of time of the continuance, and why the hearing could not begin before December 10, 2024. Accordingly, the matter will be set as follows:

The PHC is rescheduled to November 8, 2024, at 10:00 AM. The parties filed PHC statements and need not file additional statements unless warranted. Prehearing motions are due to OAH no later than three business days before the PHC or with a showing of good cause why it was not timely filed.

Due Process Hearing shall be held on November 19, 20, and 21, 2024. The hearing shall begin at 9:30 AM each day, unless otherwise ordered.

If the parties have a conflict with the hearing date of November 19, 2024, the parties shall meet and confer, and file a request for continuance with jointly proposed dates no later than 5:00 PM on October 11, 2024. Conflicts involving special education due process hearings for later filed matters and special education mediations do not establish good cause to bar this matter from proceeding on November 19, 2024. Any motion for a continuance shall establish why the hearing cannot proceed before December 10, 2024.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. 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.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings