

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL
DISTRICT.

OAH CASE NO. 2012020850

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING DUE
PROCESS HEARING

On May 7, 2012, Parent, on behalf of Student, filed a request to continue the hearing in this matter on the grounds that Student had been hospitalized recently due to a medical emergency, and while currently released from the hospital, required Parents to care for him, thus making them unavailable for hearing on May 8 through May 10, 2012. Father's statement as to Student's condition was filed as a declaration, under oath. Student does not have legal counsel and Parent is representing Student in the due process hearing. On May 7, 2012, the Cupertino Union School District (District) filed an opposition to Student's request. In the alternative, District provided dates for the due process hearing available to it and its counsel.

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. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings (OAH) considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are vacated. This matter will be set as follows:

Due Process Hearing: May 21, 22 and 24, 2012 at 9:30 AM, except on
May 21, 2012, when it shall start at 1:30 PM

IT IS SO ORDERED.

Dated: May 7, 2012

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings