

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CUPERTINO UNION SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012080222

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

On November 16, 2012, Cupertino Union School District and Student filed a joint stipulation to continue the dates in this matter.¹ The parties represented they had reached an agreement in principle and needed time to finalize a settlement agreement.

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).) 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. However, this is the third continuance in this matter. The parties are reminded that further continuances will only be considered for good cause. This matter will be set as follows:

¹ The joint stipulation also included a continuance request in Student's case, OAH case number 2012090363, which shall be addressed separately.

Prehearing Conference: December 10, 2012 at 1:30 PM (telephonic)
Due Process Hearing: December 17-18, 2012, and continuing day to day,
Monday through Thursday, as needed at the
discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: November 19, 2012

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings