

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. 2013010643

ORDER CONTINUING PREHEARING
CONFERENCE

On June 5, 2013, Student and Cupertino Union School District (District) filed a joint request to continue the prehearing conference scheduled on June 5, 2013, at 1:30 p.m. The parties requested to continue the prehearing conference to June 14, 2013, at 1:30 p.m. in order to engage in settlement negotiations and participate in mediation on June 12, 2013. The parties did not request to continue the due process hearing.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, the Office of Administrative Hearings (OAH) is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, 3.1332 .) Generally, continuances of matters are disfavored. (Cal. Rules of Court, 3.1332(c).)

Having considered the parties' request for good cause, the request to continue the prehearing conference is granted. The new date is as follows:

Prehearing Conference: June 14, 2013, at 1:30 p.m. (Telephonic)

The parties are reminded to file a prehearing conference statement pursuant to the OAH scheduling order of April 8, 2013. The due process hearing currently scheduled on June 25 through 27, 2013 shall remain on the calendar and is not continued.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall 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, as applicable.

Dates for the prehearing conference and hearing will not be cancelled until the OAH receives a letter of withdrawal, or a request for dismissal and the signature page of the signed agreement. If an agreement in principle is reached, the parties should plan to attend the scheduled prehearing conference and hearing unless different arrangements have been agreed upon by the assigned administrative law judge.

IT IS SO ORDERED.

Dated: June 5, 2013

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings