BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2025110210

ORDER FOLLOWING NON-EXPEDITED PREHEARING CONFERENCE GRANTING REQUEST FOR CONTINUANCE

DECEMBER 15, 2025

On December 15, 2025, Administrative Law Judge Kara Hatfield, Office of Administrative Hearings, OAH, held a telephonic prehearing conference. The Administrative Law Judge will be referred to as an ALJ. The prehearing conference will be referred to as a PHC. Parent failed to appear on behalf of Student. Anisha Asher, Attorney at Law, appeared on behalf of Cupertino Union School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

The parties are still engaged in the expedited due process hearing, and it will not be completed before the date the non-expedited due process hearing is scheduled to begin on December 23, 2025. During the expedited hearing, the parties and the ALJ discussed the need to continue the non-expedited hearing to dates after the expedited hearing has completed. The parties and the ALJ also discussed some additional dates on which the expedited hearing will be held in January 2026 after the school district's winter break, during which both Parent and Cupertino established they were not available for hearing.

On December 10, 2025, Cupertino filed a written motion to continue the non-expedited hearing to February 18, 2026, a date that would not conflict with other engagements and due process hearings to which Cupertino's attorney is obligated. Student did not respond to Cupertino's attorney's attempt to meet and confer by email regarding mutually agreeable dates for the non-expedited due process hearing. Student also did not file with OAH a written response to Cupertino's motion, and did not appear at the non-expedited PHC to provide oral input regarding mutually agreeable dates or any specific scheduling conflicts for Parent.

On the afternoon of December 15, 2025, Student filed a motion to continue the PHC based on Parent's asserted unavailability at the scheduled time because of the time Student's school lets out and Parent's asserted need to be the one to pick up Student and his siblings after school. Parent did not avail himself of the opportunity to participate in the PHC telephonically using the dial-in instructions provided in the electronic invitation to the PHC. The PHC proceeded without Parent.

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).) 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

The request for continuance is granted for good cause due to the parties' ongoing involvement in the expedited due process hearing and the need for sufficient time at the conclusion of the expedited hearing to issue a Decision. All previously scheduled dates for the non-expedited due process hearing are vacated. The case shall proceed as follows:

PREHEARING CONFERENCE will be held on February 13, 2026, at 10:00 AM.

All other non-expedited prehearing matters shall be addressed at the February 13, 2026, PHC. Non-expedited PHC statements and all non-expedited prehearing motions must be filed three business days before the PHC.

NON-EXPEDITED DUE PROCESS HEARING will be held on

February 24, 25, and 26, 2026.

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

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.

SETTLEMENT

The parties shall 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 shall 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 shall 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 shall 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 prehearing conference.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings