BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CUPERTINO UNION SCHOOL DISTRICT,	OAH CASE NO. 2013040122
PARENT ON BEHALF OF STUDENT, v. CUPERTINO UNION SCHOOL DISTRICT.	OAH CASE NO. 2013040122 ORDER DENYING REQUEST FOR CONTINUANCE

On May 28, 2013, Parent, on behalf of Student, filed a request to continue these consolidated matters on the grounds that Student has medical needs that require Parents to remain with Student, thereby making them unavailable for the due process hearing set to begin on May 29, 2013.[1] On May 28, 2013, the Cupertino Union School District filed an opposition to Student's motion.

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

[1] Student's request was received on May 27, 2013. However, because May 27, 2013, was a holiday, the request is deemed filed on May 28, 2013.

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:

☒ Denied. All hearing dates are confirmed and shall proceed as calendared. Student suffers from a seizure disorder and according to Student's request, on May 13, 14 and 26, 2013, Student had a seizure lasting approximately one minute each. Student contends that this requires his Parents to stay with him and monitor him, and Student requests the hearing be continued to June 10, 2013. In support of his position Student provides emails between his Parents and medical professionals. However, the emails discuss only the issue of a fever following a seizure. There is no medical recommendation that Parents watch Student for any particular amount of time. There is no evidence provided that would support a continuance of the hearing. Accordingly, the request to continue is denied.

IT IS SO ORDERED.

Dated: May 28, 2013

/s/

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