

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CUPERTINO UNION SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2013020738

ORDER FOLLOWING PREHEARING
CONFERENCE; GRANTING
REQUEST FOR CONTINUANCE
AND SETTING PREHEARING
CONFERENCE DATES

The due process hearing in this matter is currently set to begin on November 4, 2013. On October 28, 2013, a telephonic prehearing conference (PHC) was held by Administrative Law Judge Adeniyi A. Ayoade (ALJ), Office of Administrative Hearings (OAH). Rodney L. Levin, Attorney at Law, appeared on behalf of the Cupertino Union School District (District). Susan Foley, Attorney at Law, appeared for the Parents on behalf of Student (Student). The PHC was recorded.

Based on discussion with the parties, the ALJ issues the following order:

1. Motion to Continue: At the beginning of the PHC, the attorneys for both parties represented that they have reached an agreement resolving all issues in this case, and that they are currently obtaining the signatures of their respective clients on the final settlement agreement. Both parties indicated that additional time is needed to fully execute the agreement. Therefore, both attorneys requested that the PHC be continued to October 30, 2013.

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, 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, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

In this case, the resolution of all issues in the case through settlement, and the imminence of a fully executed settlement agreement between the parties, which would resolve this pending case support a finding of good cause for the continuance requested by the parties. In addition, granting the parties the requested short continuance would prevent

undue expenditure of time and resources, without prejudicing the parties and OAH's interest in speedy resolution of the due process hearing and disputes.¹ Therefore, good cause is established for the continuance of the PHC, and accordingly the parties' joint request for the continuance of the PHC is granted. This PHC is set as follows:

Prehearing Conference: October 30, 2013, at 10:00 AM

2. Other Matters: All other matters relevant to preparing for hearing, including clarification of issue(s) and identification of witnesses and exhibits, shall be addressed at the PHC on October 30, 2013. Unless modified by this order, all other orders contained in the OAH's Scheduling Order dated February 25, 2013 shall remain in effect.

3. Settlement: Dates for hearing will not be cancelled until a letter of withdrawal, or a request for dismissal and the 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.

IT IS SO ORDERED.

Dated: October 28, 2013

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings

¹ The due process hearing dates are not continued.