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 NUMBER 2025110972

ORDER FOLLOWING PREHEARING CONFERENCE GRANTING REQUEST FOR CONTINUANCE

DECEMBER 12, 2025

On December 8, 2025, Administrative Law Judge Robert G. Martin, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Anisha Asher appeared on behalf of Cupertino Union School District. Parent appeared on behalf of Student. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

HEARING DATES, TIMES, AND LOCATION

In Student's prehearing conference statement, Parent on behalf of Student requested OAH continue the prehearing conference and due process hearing. Student based this request on a conflict between the hearing dates in this case and the hearing dates in Student's earlier-filed case naming Cupertino, OAH Case number 2025110210, called Student's Case. Student's Case includes expedited issues scheduled for hearing on December 9, 10, and 11, 2025, and non-expedited issues scheduled for hearing on December 23 and 24, 2025. At the PHC, Cupertino objected to the requested continuance.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;

- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or
- The case has a significant and unexpected change which makes the case not ready for trial.

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.

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

Cupertino objected to the requested continuance on grounds that the scheduled hearing dates in Student's Expedited Case did not conflict with the hearing dates in this case. However, Student's due process hearing request in that case included three issue for expedited hearing, based upon 34 factual contentions alleged in Student's complaint as issues 1-18 and 51-67. Typically, expedited hearings require three to five days. Here, Student contended he needed 12 days to question 62 witnesses. Student estimated a similar number of days would be required for the hearing of Student's non-expedited issues, scheduled for hearing on December 23 and 24, 2025. Even allowing for possible reduction in the number of witnesses and days required, Student established that the hearing of Student's previously-filed Expedited Case presented a conflict with the scheduled hearing dates in this case, and that the hearing of Student's previously-filed Non-Expedited Case would proceed into January 2026. Thereafter, Cupertino's attorney for the hearing of this matter was unavailable for hearing until February 3, 2026 due to conflicts with hearings scheduled in earlier-filed matters.

The request for continuance was granted at the December 8, 2025 prehearing conference for good cause. All previously scheduled dates are vacated. The case shall proceed as follows:

PREHEARING CONFERENCE will be held on January 23, 2025, at 1:00PM.

All other prehearing matters shall be addressed at the January 23, 2026 prehearing conference. All prehearing motions must be filed three business days before the PHC.

DUE PROCESS HEARING will be held on February 3, 4, and 5, 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.

IT IS SO ORDERED.



Robert G. Martin
Administrative Law Judge
Office of Administrative Hearings