

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

MT. DIABLO UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012080096

ORDER DENYING REQUEST FOR  
CONTINUANCE

On August 13, 2012, the parties filed a joint request to continue the dates in this matter.

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 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 and timelines shall proceed as calendared. Here, the parties have requested a continuance of the mediation and hearing dates, and OAH is inclined to grant the continuance. However, the parties asked for a mediation date of Monday, September 10, 2012, and OAH only sets mediations on Tuesday, Wednesday and Thursday. Further the parties asked for a prehearing conference (PHC) on Friday, September 14, 2012, and OAH only sets PHC's on Monday and

Wednesday. Finally, OAH is currently unable to continue any matters to September 2012. The parties may re-submit the request to continue after they have agreed upon new dates in October 2012. If the parties are unable to agree on hearing dates, they may ask OAH to select dates.

IT IS SO ORDERED.

Dated: August 13, 2012

/s/

---

REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings