

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2014070959

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING PHC

On November 10, 2014, the parties jointly filed a request to continue the date of the PHC in this matter from November 10, 2014, because they are in the process of circulating a settlement agreement for signatures. The due process hearing in this matter is set to begin on November 18, 2014. This is the parties' second request for a continuance 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).) 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:

Granted. The PHC set for November 10, 2014, is continued and will be set as follows:

Prehearing Conference: November 14, 2014, at 10:00 a.m.

IT IS SO ORDERED.

DATE: November 10, 2014

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings