

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. 2015100751

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
PREHEARING CONFERENCE AND  
HEARING DATES

On February 17, 2016, Student filed a request to continue the dates in this matter because Student's attorney is scheduled to be in an expedited hearing in another matter on March 8, 9, and 10, 2016, the days this matter is scheduled to be heard. Student also asks that the hearing be continued because an independent educational evaluation is being completed. Mt. Diablo Unified School District opposes the continuance.

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 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. All dates are vacated. Student has shown good cause for a very short continuance because of the conflict with an expedited hearing on March 8, 9, and 10, 2016. However, Student did not show good cause for a continuance for the length of time requested. This matter will be set as follows:

Prehearing Conference: March 11, 2016, at 10:00 a.m.

Due Process Hearing: March 17, 2016 at 9:30 a.m., March 22, 2016 at 9:00 a.m., and March 23, 2016 at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

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, as applicable.

IT IS SO ORDERED.

DATE: February 22, 2016

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MARGARET BROUSSARD  
Presiding Administrative Law Judge  
Office of Administrative Hearings