

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. 2014070273

ORDER DENYING REQUEST FOR
CONTINUANCE

On July 30, 2014, Parent, on behalf of Student, filed a request to continue the initially set dates in this matter, and also to change the location of the mediation. On August 4, 2014, the Mt. Diablo Unified School District opposed the request based upon Parent failing to serve a copy of the continuance request upon legal counsel for District.¹

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:

☒ Denied. All hearing dates and timelines shall proceed as calendared. Here, Student requested a continuance of the hearing dates, and OAH is inclined to grant

¹ District in its opposition, cancelled the August 6, 2014 mediation.

the continuance. However, Parent did not discuss and confer with District's legal counsel regarding new hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure. Student may re-submit the request to continue after the parties have met and conferred upon mutually agreeable hearing dates.² Student's request to change the mediation location is also denied without prejudice as the parties should meet and confer first regarding the mediation location. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: August 4, 2014

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

² Parent shall ensure a copy of all future motions or documents filed with OAH are also served upon District's attorney, Lenore Silverman. Ms. Silverman filed a notice of representation on July 7, 2014, but Parent only served District and OAH, and not Ms. Silverman, with a copy of the continuance motion.