

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MOUNTAIN VIEW-LOS ALTOS UNION
HIGH SCHOOL DISTRICT.

OAH Case No. 2014051223

ORDER DENYING REQUEST TO
VACATE HEARING DATE AND
GRANTING REQUEST FOR BRIEF
CONTINUANCE

On August 18, 2014, the parties filed a joint request to vacate the due process hearing dates scheduled to commence tomorrow, August 19, 2014, and to place the matter “off calendar” because the parties have reached an agreement in principle. The Office of Administrative Hearings does not place matters off calendar. The request, therefore, is considered a motion to continue the due process hearing dates.

APPLICABLE LAW

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).)

DISCUSSION

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. A one-day continuance will be granted for the parties to reduce their settlement agreement to writing. The parties will be ordered to submit a copy of the

signature page of the settlement agreement to OAH by 4:00 PM on Tuesday, August 28, 2014, or to appear for hearing on Wednesday, August 29, 2014.

ORDER

1. The request to continue the due process hearing is granted.
2. The hearing date of August 19, 2014, is vacated.
3. Student shall file a request for dismissal along with a signed copy of the settlement page of the parties' agreement by 4:00 P.M. on August 19, 2014.
4. The parties are ordered to appear and be ready to proceed to hearing at 9:30 AM on Wednesday, August 20, 2014, unless Student files a request for dismissal along with a signed copy of the settlement page of the parties' agreement by 4:00 PM on August 19, 2014, as indicated above.

IT IS SO ORDERED.

DATE: August 18, 2014

/s/

JOY REDMON

Administrative Law Judge

Office of Administrative Hearings