

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. 2015020949

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

On March 27, 2015, counsel for the Mount Diablo Unified School District filed a request to continue the dates in this matter based upon the fact that counsel had only been retained that day and had insufficient time to prepare to represent her client on the currently scheduled dates. On March 30, 2015, Student opposed the request based upon the claim that the dispute between the parties had been pending for years and that there had been a misunderstanding during previous negotiations for a 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).) 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. All dates are vacated. The recent retention of counsel is good cause for continuance. While the dispute may have been ongoing for some time, the request for due process hearing was not filed until February 12, 2015. This is the first requested

continuance and it does not appear that either party will be prejudiced by a continuance. This matter will be set as follows:

Prehearing Conference:	May 22, 2015, at 10:00 AM
Due Process Hearing:	May 27, 2015, at 9:30 AM, and May 28, 2015, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: March 30, 2015

/s/

CHARLES MARSON
Acting Presiding Administrative Law Judge
Office of Administrative Hearings