BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016110412
LOS ANGELES UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016101052 ORDER GRANTING REQUEST FOR RECONSIDERATION; AND ORDER GRANTING CONTINUANCE

On March 8, 2017, the undersigned administrative law judge issued an order that denied the parties' joint continuance request as the Office of Administrative Hearings had granted two prior continuance and the setting of a new hearing date based on parties' amended complaints did not establish by itself good cause for a continuance. On March 9, 2017, Student filed a request for reconsideration and included a declaration as to unavailability of Student's counsel. Los Angeles Unified School District did not submit a response.

APPLICABLE LAW

OAH will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

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

Reconsideration

Student alleges new facts in support of the request reconsideration, with the declaration from Student's attorney as to his unavailability due to an existing hearing set to start on March 28, 2017. Accordingly, Student's request for reconsideration is granted.

Continuance Request

The parties' continuance request was for a hearing to start on May 8, 2017. However, Student has only established unavailability through the end of March 2017. Therefore, this matter is only continued for the hearing to commence on April 18, 2017.

ORDER

1. Motion for Reconsideration is granted.

2. Based on reconsideration, this matter will be set as follows:

Prehearing Conference:	April 7, 2017, at 3:00 PM
Due Process Hearing:	April 18, 2017, at 9:30 AM, April 19 and 20, 2017, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. Matter is assigned to Administrative Law Judge Christine Arden.

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.

DATE: March 9, 2017

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings