BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SAN CARLOS CHARTER LEARNING CENTER.

OAH CASE NUMBER 2019050316

ORDER GRANTING REQUESTS FOR RECONSIDERATION AND CONTINUANCE

On July 18, 2019, the parties jointly requested a continuance of the due process hearing in this matter to September 17, 18 and 19, 2018. On that same day the undersigned partially granted and partially denied the request in an order continuing the hearing to August 27 and 28, 2019. The ruling was made based on, among other things, the litigation schedule of Ms. Sarah Bancroft, the attorney who was scheduled to represent San Carlos at the hearing.

On July 19, 2019, San Carlos moved for reconsideration of that order on the ground that San Carlos's representation n the law firm representing San Carlos had changed internally. Since the motion for reconsideration again requests a continuance to September 17, 2019, the date to which Student previously agreed by joining in the earlier motion, it is assumed that Student has no objection to the motion for reconsideration.

APPLICABLE LAW

The Office of Administrative Hearings 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, generally within ten days. (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.)

DISCUSSION

San Carlos's motion for reconsideration is supported by declarations from Ms. Bancroft and from Lisa Corr, the partner at the firm who supervises special education matters. Together the two declarations establish the following: On July 18, 2019, the same day OAH issued the order for which reconsideration is sought, Ms. Bancroft announced her resignation from the firm and fixed her last day there as July 31, 2019. Of necessity Ms. Corr will now act as lead counsel at the due process hearing in this matter because no one else in the firm has the expertise and experience to act as lead counsel in the matter on short notice.

Ms. Corr further establishes in her declaration that she has a prepaid vacation scheduled from August 21 through August 28, 2019, which conflicts with the new hearing dates set in the order of July 18, 2019. Attachments to her declaration show that she has airline and cruise ship reservations for a trip to Alaska during that week.

These new developments make it unlikely that San Carlos could adequately be represented if the hearing proceeds on its current schedule. Accordingly, the motion for reconsideration is granted.

ORDER

On reconsideration, the hearing schedule set forth in the order of July 18, 2019, is no longer practical. The due process hearing will be continued to September 17, 18 and 19, 2019, the dates originally sought, so that Ms. Corr can adequately prepare to represent San Carlos at the hearing. The hearing shall begin at 9:30 a.m. the first day, and at 9:00 a.m. on all other days unless otherwise ordered. The hearing shall continue day to day, 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 their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness.

DocuSigned by:
Charles Marson
22945BBAD50448E...

DATED: July 19, 2019

Charles Marson
Administrative Law Judge
Office of Administrative Hearings