BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

SAN MARINO UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2020020550

and

SAN MARINO UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2019100996

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING REQUEST FOR CONTINUANCE

MARCH 12, 2020

On February 19, 2020, the undersigned Administrative Law Judge issued an order granting the parties' joint request for consolidation and denying a motion to continue. On March 12, 2020, the parties filed a joint motion for reconsideration of the order denying continuance.

APPLICABLE LAW

RECONSIDERATION

The Office of Administrative Hearings, called 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, 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.)

CONTINUANCES

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

DISCUSSION

The parties offer new facts and circumstances to support reconsideration. Specifically, they indicate that the current hearing dates fall during San Marino Unified School District's spring recess. The motion for reconsideration is granted.

On reconsideration, the parties have failed to establish good cause to continue this matter. Spring break is not good cause to continue a due process hearing. Further, while pre-paid and pre-planned vacations for key witnesses may be good cause for a continuance, the parties have failed to provide a declaration or any evidence in support of their contention that it will be difficult to secure the appearance of witnesses.

ORDER

1. The parties' request for reconsideration is granted.
2. The motion to continue is denied.
3. This matter will proceed as previously scheduled.

IT IS SO ORDERED.



Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings