BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: VACAVILLE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018050545
PARENT ON BEHALF OF STUDENT, v. VACAVILLE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018060451 ORDER DENYING REQUEST FOR RECONSIDERATION, AND DENYING REQUEST FOR A CONTINUANCE

On September 6, 2018, the undersigned administrative law judge issued an order granting Student's request for a continuance of the due process hearing to October 16, 2018, and determined good cause was established because Student's brother will undergo a medical procedure on September 12, 2018, that requires follow up visits every other day for two to three hours per visit, for four to six weeks.

On September 10, 2018, Vacaville filed a motion for reconsideration, or in the alternative, a motion for a further continuance of the due process hearing due to unavailability of counsel. Vacaville requests the due process hearing be continued to October 30, 2018.

On September 13, 2018, Student opposed Vacaville's request for continuance due to counsel's unavailability but requested that the parties meet and confer for mutually agreeable continued dates.

APPLICABLE LAW

Reconsideration

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. (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.)

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).

DISCUSSION

Reconsideration

Vacaville alleges no new facts, circumstances, or law in support of the request for reconsideration. Instead, Vacaville reiterates its previous arguments against Student's request for a continuance, including that the October 16, 2018 due process hearing date, is during the time period of medical follow-up appointments. Accordingly, Vacaville's request for reconsideration is denied.

Continuance

Vacaville seeks to continue this matter due to counsel's unavailability in OAH Case No. 2018071152, from October 16 through October 18, 2018, and OAH Case No. 2018070394, from October 24 through October 26, 2018. Counsel's request is unpersuasive as the other matters cited on counsel's calendar are later-filed, and this case takes priority. Thus, Vacaville's request to continue the hearing to October 30, 2018, is denied.

ORDER

1. Vacaville's motion for reconsideration is Denied.

2. Vacaville's motion for further continuance is Denied.

3. All dates remain as previously set.

IT IS SO ORDERED.

DATE: September 14, 2018

DocuSigned by:
Cynthia Fritz
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CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings