BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
ORINDA UNION SCHOOL DISTRICT,	OAH Case No. 2017060787
v.	ORDER GRANTING ORINDA UNIFIED SCHOOL DISTRICT'S REQUEST FOR RECONSIDERATION AND RESETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING
PARENT ON BEHALF OF STUDENT.	

On July 3, 2017, the undersigned administrative law judge issued an order granting Orinda Unified School District's Request for Continuance of the due process hearing. Although Orinda requested a continuance until October, 2017, the continuance was granted for one day only. The hearing was continued from July 11, 2017 to July 12, 2017. On July 6, 2017, Orinda filed a request for reconsideration due to the unavailability of Orinda's Counsel and Co-Counsel on July 12, 2017. Student has not filed an opposition to the request for continuance or the request 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. (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

Reconsideration

Orinda alleges new facts and circumstances in support of the request reconsideration. Orinda did not anticipate the one day continuance and did not originally inform the undersigned ALJ that Counsel for Orinda had another due process hearing scheduled for July 13, 2017, in OAH Case Number 2017060205, and travel plans on July 12, 2017 for that hearing. Orinda also asserted in the Request for Reconsideration that Co-Counsel, Summer Dalessandro, is also unavailable on July 12, 2017, due to a prior commitment to present at a

school board meeting in the greater San Diego area the evening of July 12, 2017. In the future, all conflicts should be disclosed in the intial request.

The Request for Reconsideration is accompanied by sworn declarations by Counsel for Orinda, Jennifer Baldassari, and Co-Counsel for Orinda, Summer Dalessandro.

Having found good cause for Orinda's Request for Reconsideration, Orinda's request for reconsideration is Granted.

Orinda's Request to Continue the Due Process Hearing to October 3, 2017

APPLICABLE LAW

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

DISCUSSION

Having found good cause for Orinda's request for continuance, on reconsideration, the due process hearing is continued to October 3 and 4, 2017, continuing day to day, Monday through Thursday, at the discretion of the ALJ.

ORDER

All prior dates for the prehearing conference and due process hearing are vacated. Dates are reset as follows: Prehearing Conference: September 25, 2017 at 10:00 AM. Due Process Hearing: October 3 and 4, 2017, continuing day to day, Monday through Thursday,

at the discretion of the ALJ. The hearing shall begin at 9:30 a.m. the first day of the hearing and at 9:00 a.m. all other days, unless otherwise ordered.

IT IS SO ORDERED.

DATE: July 7, 2017



RITA DEFILIPPIS
Administrative Law Judge
Office of Administrative Hearings