BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MILPITAS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026020736

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING STUDENT'S REQUEST FOR CHANGE OF HEARING DATES

APRIL 9, 2026

On March 26, 2026, the undersigned Administrative Law Judge issued an order granting Milpitas Unified School District's motion for continuance based on good cause. The due process hearing was set for April 28, through 30, 2026. On March 27, 2026, Student filed a conditional motion for reconsideration. Student conditioned the motion for reconsideration on the outcome of Student's pending motion to compel which was filed with the Office of Administrative Hearings on March 24, 2026. This motion will be addressed in a separate order. On April 6, 2026, Milpitas filed an opposition to

Student's conditional motion for reconsideration. This order only addresses the motion for reconsideration.

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, 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.)

Student offers new facts, circumstances or law to support reconsideration. Student contends that the order for continuance is based on erroneous facts. Student contends they were never served with the motion for continuance and therefore had no opportunity to respond.

Student argues that they must have a decision on the ability for their accessor, Dr. Balasubramanian, to access Student through classroom observation to complete an inclusion assessment and have the report reviewed in time for there to be an IEP meeting before the start of the 2026-2027 school year. Student requests that if their pending motion to compel is not granted by OAH, then the hearing be continued only until respondent's counsel's return from her pre-paid vacation with a hearing scheduled for April 21, through 23, 2026. Student's motion for reconsideration is granted.

Student misreads the undersigned ALJ's order. The order dated March 26, 2026, found good cause for Milpitas' request for continuance and continued the due process hearing to April 28 through 30, 2026 with a prehearing conference scheduled for April

20, 2026, at 10:00 AM. Student mistakenly states the hearing was continued to May 12, through 14, 2026. In the request for reconsideration, Student requests hearing dates of April 21, through 23, 2026. The request is denied. Milpitas established that its counsel was unavailable for the period of April 6, through 15, 2026. A hearing start date of April 21 would require a prehearing conference of April 10 or 13, 2026. Milpitas' counsel is unavailable on those dates.

Student contends that if the hearing is continued, Student's accessor, Dr. Balasubramanian will have insufficient time for direct classroom observation during the current school year and drafting of her report to allow for IEP team review prior to the 2026-2027 school year. Student contends that if the continuance is granted, Student will be harmed by the delay in their accessor's observation and report. Student's argument is conditioned on a determination by OAH regarding Dr. Balasubramanian's access to the classroom, which has not yet been decided. Student has not established that it is materially prejudiced by the continuance of the hearing to April 28, through 30, 2026.

Student contends that it was not served with the motion for continuance and therefore had no opportunity to respond. Milpitas contends that it served Student via fax to the number listed on Student' Due Process Complaint dated February 17, 2026. The proof of service dated March 17, 2026, confirms this. Student alleges that Student's counsel no longer has access to the fax line and that because District did not also serve Student's counsel via email they were not actually served and had no opportunity to respond. This issue is moot because Student's request for reconsideration was granted.

ORDER

1. Student's motion for reconsideration is granted.

2. Student's request for change of the hearing date is denied.

3. Dates for prehearing and due process hearing are confirmed as follows:

   PREHEARING CONFERENCE will be held on April 20, 2026, at 10:00 AM.

   DUE PROCESS HEARING will be held on April 28, through April 30, 2026.

IT IS SO ORDERED.

Katherine Roe
Katherine Roe (Apr 9, 2026 12:56:25 PDT)

Katherine Roe

Administrative Law Judge

Office of Administrative Hearings