BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SAN MATEO UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2019050656
SAN MATEO UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT	OAH Case No. 2019040589 ORDER GRANTING REQUEST FOR RECONSIDERATION AND GRANTING CONTINUANCE

On June 26, 2019, the undersigned administrative law judge issued an order denying Student's motion to continue because good cause was not established. The same day, Student filed a motion for reconsideration and included facts supporting the continuance request. Student re-asserted the motion to continue was not opposed by San Mateo.

APPLICABLE LAW

The Office of Administrative Hearings generally reconsiders 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

Student submitted new facts supporting the motion to continue. Accordingly, reconsideration is GRANTED.

Continuance

Student's counsel has a preplanned vacation that conflicts with the currently scheduled hearing dates. The vacation was planned before the scheduling order was issued in this case. The vacation extends to July 19, 2019. Counsel requested the matter be set in September because several unspecified district witnesses will not be available until then. Alternatively, Student requested if the forgoing did not establish cause for the length requested, that the matter be set in late July.

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).)

Student established good cause to continue this matter due to counsel's unavailability. Good cause to continue this matter until September was not established. The matter is now set as follows:

Prehearing Conference:	July 22, 2019, at 10 AM
Due Process Hearing:	July 30, 2019 – August 1, 2019, and day to day thereafter as needed at the discretion of the ALJ. The hearing starts at 9:30 AM on the first day and 9 AM on subsequent days unless ordered otherwise.

Motions are due no later than three business days before the prehearing

conference. Parties shall immediately notify their witnesses of the newly ordered hearing dates. Witnesses shall not be regarded as unavailable due to the failure to give proper notice or to properly subpoena witnesses.

IT IS SO ORDERED.

DATE: June 26, 2019

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Joy Redmon
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JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings