BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017061192
v.	ORDER GRANTING REQUEST FOR RECONSIDERATION AND CONTINUING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES
NAPA VALLEY UNIFIED SCHOOL DISTRICT, VALLEJO CITY UNIFIED SCHOOL DISTRICT.	

On January 30, 2018, the undersigned administrative law judge issued an order granting Student's motion to continue and scheduling prehearing conference and due process hearing dates. On January 31, 2018, Vallejo City Unified School District filed a request for reconsideration of the dates assigned in the prior order based, in part, on counsel's unavailability. Vallejo City alternatively filed a motion to continue the dates based on counsel's unavailability and Vallejo City's spring break. On February 2, 2018, Napa Valley Unified School District filed a motion for reconsideration of the dates based on the unavailability of a necessary witness on the newly scheduled dates. Petition did not respond to either motion.

MOTION FOR 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.)

The motions for reconsideration are granted. On reconsideration, Napa Valley and Vallejo City provided additional facts regarding counsel and witness unavailability on the previously scheduled hearing dates to grant reconsideration of the prior order.

MOTION FOR 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).)

In this case, good cause was established for a brief continuance of the previously scheduled dates based on counsel and witness unavailability.

ORDER

1. Motion for Reconsideration is GRANTED.

2. The motion for a continuance is GRANTED.

3. The previously scheduled prehearing conference and due process hearing dates are vacated.

4. The matter is now scheduled as follows, and no further continuance requests will be granted absent extraordinary good case:

Prehearing Conference: April 9, 2018, at 1:00 p.m.

Due Process Hearing: April 17, 2018, at 9:30 a.m., April 18, 2018, and April 19, 2018, at 9:00 a.m., and thereafter as needed, Monday through Thursday, at the discretion of the ALJ.

IT IS SO ORDERED.

DATE: February 5, 2018

DocuSigned by:
Joy Redmon
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JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings