BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. FOUNTAIN VALLEY SCHOOL DISTRICT,	OAH CASE NO. 2013110142
FOUNTAIN VALLEY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013090553 ORDER GRANTING REQUEST FOR RECONSIDERATION, GRANTING REQUEST FOR CONTINUANCE AND SETTING MEDIATION, PREHEARING CONFERENCE AND DUE PROCESS HEARING

On February 25, 2014, the undersigned administrative law judge issued an order denying the parties' joint request for a continuance on the grounds that the delay in a final resolution to this matter by the requested continuance would not comply with the speedy resolution mandate of the Individuals with Disabilities Education Act. On February 28, 2014, Student filed another request to continue, which is treated as a motion for reconsideration. On March 3, 2014, the Fountain Valley School District (Fountain Valley) filed a non-opposition to Student's request. Because Fountain Valley sets out further grounds for the continuance, the parties' filings are treated as a joint request for reconsideration.[1]

APPLICABLE LAW

The Office of Administrative Hearings (OAH) 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, §

[1] On March 4, 2014, Student filed a response to Fountain Valley's non-opposition. While the response was received after the undersigned had drafted this order, the response was considered. It did not materially impact the ruling on the parties' motion.

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 has requested that the due process hearing in this matter be continued until June 16, 2014, due to numerous other proceedings that Student's counsel has set for hearings prior to that date. However, the majority of the cases cited by Student's counsel were filed after the matters in this consolidated matter. This matter would take precedence over the other matters. Furthermore, given that counsel for both parties have practiced special education for some time, they are both aware that a large majority of special education cases settle; therefore, the argument that counsel has other matters pending is not persuasive.

However, the parties have asked to participate in mediation, which may be grounds to stop or delay a due process hearing under Education Code section 56501, subdivision (b)(2). While the undersigned is not persuaded by the assertion that the parties have not been able to participate in mediation, since the parties have canceled previous mediations that OAH has calendared, OAH will grant the parties another mediation as set forth below.

Furthermore, Fountain Valley has presented information in its response establishing that a key witness and administrator for Fountain Valley will be unavailable for a significant amount of time in April and May of 2014. Due to the parties desire to mediate and the new information concerning unavailability of Fountain Valley's administrator, the parties' request for reconsideration is granted.

Continuance

As discussed above the parties' request for mediation, and the unavailability of Fountain Valley's administrator, provide minimal good cause for a continuance. However, the matter will be continued to June 9, 2014, and not June 16, 2014, as requested by Student. Furthermore, should the matter require more days than the week of June 9, 2014, to be completed, any other matters calendared by the parties for the week of June 16, 2014, will be subject to a continuance so that this matter may continue day to day until completed.

ORDER

1. The parties' request for reconsideration is granted.

2. Mediation is set for March 20, 2014, at 9:30 a.m.

3. Prehearing Conference is set for May 30, 2014, at 10:00 a.m.

4. Due process hearing is set for June 9 – 12, 2014, starting at 1:30 p.m. on June 9, 2014. **This matter shall continue day to day, at the discretion of the Administrative Law Judge presiding at the hearing, regardless of any other matters the parties may have calendared after June 9, 2014.**

5. There will be no further continuances in this matter.

DATE: March 4, 2014

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings