BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. NAPA VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2019020953 ORDER GRANTING REQUEST FOR RECONSIDERATION AND CONTINUANCE OF PREHEARING CONFERENCE AND DUE PROCESS HEARING

On April 4, 2019, the undersigned administrative law judge issued an order that denied Napa Valley's request for a hearing continuance without prejudice because: (1) spring break is not good cause for a continuance, and (2) Napa Valley failed to provide a declaration or evidence in support of its contention that witnesses and/or parties were unavailable to attend the scheduled hearing. On April 5, 2019, Napa Valley filed a motion for reconsideration with accompanying declarations.

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

Napa Valley alleged new facts and evidence in support of its request for reconsideration which included evidence of the director of special education's pre-planned vacation during the scheduled hearing. Accordingly, Napa Valley's request for reconsideration is granted.

Continuance

Napa Valley established through sworn declarations the unavailability of the special education director and Parent for the scheduled due process hearing dates. Thus, good cause is established for a hearing continuance. Additionally, Napa Valley's counsel established unavailability through mid-May due to earlier filed OAH cases scheduled for hearing. Thus, good cause is established to continue the hearing to May 21, 2019.

ORDER

1. The Motion for Reconsideration is Granted.

2. The Motion for Continuance is Granted.

3. All current prehearing conference and due process hearing dates are vacated.

4. The prehearing conference is scheduled for May 13, 2019, at 10:00 a.m.

5. The due process hearing is scheduled for May 21, 2019, at 9:30 a.m., and May 22 and May 23, 2019, at 9:00 a.m.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: April 8, 2019

DocuSigned by:
Cynthia Fritz
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CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings