BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. BONITA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016120180
BONITA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case Nos. 2016100595 and 2016110680 ORDER GRANTING REQUEST FOR RECONSIDERATION OF MOTION TO WITHDRAW, AND DENYING MOTION FOR CONTINUANCE WITHOUT PREJUDICE

On April 20, 2017, the undersigned administrative law judge issued an order denying Student counsel's motion to withdraw as Student's counsel, on grounds that counsel had failed to satisfy all requirements of the California Code of Regulations, title 1, section 1015, subdivision (b), because the motion did not provide Parent's last known address, or indicate that counsel had given Parent written notice of counsel's withdrawal. The Order also addressed Student counsel's request for a short continuance to an unspecified date, to allow Parent to obtain new counsel. The request for continuance was opposed by District.

On April 21, 2017 Student's counsel filed a motion for reconsideration, providing Parent's last known address and giving Parent written notice of counsel's withdrawal. In his supporting declaration, Student's counsel declared that Parent was actively seeking new representation and had already contacted several attorneys.

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

Motion to Withdraw

Here, counsel has satisfied the requirements of California Code of Regulations, title 1, section 1015, subdivision (b), for withdrawal. Accordingly, Counsel's motion to withdraw is reconsidered and granted.

California Code of Regulations, title 1, section 1015, subdivisions (c) and (d), provide that upon withdrawal by counsel or other representative:

(1) The formerly represented party bears the burden of keeping OAH and all other parties informed of a current address for purposes of service.

(2) The formerly represented party is responsible for preparation and representation throughout the remainder of the case, unless and until such party retains new counsel or other representative.

(3) Withdrawal or change of counsel or other representative does not alone constitute grounds for continuance of any previously scheduled proceeding in the case.

Accordingly, Parent is now responsible for preparation and representation throughout the remainder of the case, unless and until Parent retains new counsel or other representative.

Continuance

The request for continuance of unspecified duration in this matter is supported only by Student counsel's hearsay declaration that Parent is actively seeking new representation. The declaration does not state that Parent desires a continuance.

The request for continuance therefore is not ruled upon in this Order and will be considered at the prehearing conference in this matter set for April 24, 2014. Parent will have an opportunity to confirm whether Parent desires a continuance, and if so, to provide the status of Parent's efforts to obtain new representation and such other facts as may support the continuance, and the duration of continuance sought. Both parties will have an opportunity to present argument on any requested continuance.

ORDER

1. Student counsel's motion to withdraw is reconsidered and granted.

2. Parent is now responsible for preparation and representation throughout the remainder of the case, unless and until Parent retains new counsel or other representative.

3. The prehearing conference set for April 24, 2017 at 10:00 a.m. will proceed as scheduled. Parent will be contacted by the ALJ at the telephone number provided in Student counsel's motion for reconsideration.

IT IS SO ORDERED.

DATE: April 21, 2017

DocuSigned by:

ROBERT G. MARTIN
Administrative Law Judge
Office of Administrative Hearings