

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TAMALPAIS UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015040156

ORDER GRANTING MOTIONS TO
RECONSIDER AND CONTINUE, AND
SETTING PREHEARING
CONFERENCE AND HEARING
DATES

On June 25, 2015, the undersigned Presiding Administrative Law Judge issued an order partially granting Tamalpais Union High School District's request for continuance. The hearing was set for July 28, 2015 through July 30, 2015. At the time the request for continuance was made, Tamalpais' attorney of record had asked that the hearing be set for September 2015. Tamalpais makes a motion to reconsider the order setting the hearing dates and asks that the hearing be continued to begin the week of August 24, 2015. Tamalpais asserts that because of the original request to set hearing dates in September, its attorney did not disclose a vacation she had scheduled which conflicts with the hearing dates ultimately assigned. Student opposed the request.

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.)

Tamalpais has established new facts, the vacation of its attorney, and an explanation as to why it did not previously provide these facts. Therefore, the motion to reconsider is granted.

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated and the hearing and prehearing conference are scheduled as listed below.

Prehearing Conference: August 17, 2015 at 10:00 a.m.

Due Process Hearing: August 25, 2015, at 9:30 a.m., August 26 and 27, 2015 at 9:00 a.m. and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: July 13, 2015

/s/
MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings