BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
DUBLIN UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018050684
v.	ORDER GRANTING MOTION FOR RECONSIDERATION AND REQUEST FOR CONTINUANCE
PARENT ON BEHALF OF STUDENT.	

On June 1, 2018, Dublin filed a motion for continuance in the above captioned matter. Parent did not respond to Dublin's motion for continuance. On June 4, 2018, during the prehearing conference, Dublin's motion for continuance was denied as untimely. On June 6, 2018, Dublin filed a request for reconsideration. In its motion, Dublin addressed the reasons for the untimeliness.

MOTION FOR RECONSIDERATION

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, § 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 motion for reconsideration is granted. On reconsideration, Dublin provided additional facts regarding the untimeliness of its motion for continuance. The parties in this matter have not mediated. The interests of justice are served by encouraging settlement through mediation and Dublin made multiple attempts to confirm mediation prior to the PHC.

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).)

Dublin established good cause for granting its request of continuance. Dublin's counsel is currently scheduled to proceed to a due process hearing in a separate, but earlier-filed matter at the same time as the instant case.

ORDER

1. Motion for Reconsideration is GRANTED.

2. The motion for continuance is GRANTED

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

4. The matter is now scheduled as follows:

Prehearing Conference: Monday, July 2, 2018 at 1:00 p.m.

Due Process Hearing: July 10, 2018 at 9:30 a.m., July 11, 2018 and July 12 2018 at 9:00 a.m., and thereafter at the discretion of the ALJ.

IT IS SO ORDERED.

DATE: June 7, 2018

DocuSigned by:
Tiffany Gilmartin
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TIFFANY GILMARTIN
Administrative Law Judge
Office of Administrative Hearings