BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO UNION HIGH SCHOOL DISTRICT,

OAH CASE NUMBER 2019050656

and

SAN MATEO UNION HIGH SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2019040589

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING REQUEST TO FURTHER CONTINUE HEARING

On September 16, 2019, the undersigned Administrative Law Judge issued an order granting the parties' request for mediation and to continue the hearing dates but not for the length of time requested. The parties had requested that the hearing be

continued until December 3, 2019. The undersigned granted a continuance until October 22, 2019.

On September 20, 2019, the parties filed a joint motion for reconsideration supported by sworn declarations from each attorney.

APPLICABLE LAW

RECONSIDERATION

The Office of Administrative Hearings, referred to as 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, generally within ten days. (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.)

CONTINUANCES

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

DISCUSSION

The parties offer new facts in support of their request for reconsideration. Specifically, Student avers that both counsel are scheduled for hearing in another due process matter for the same dates scheduled for this matter. Counsel additionally indicate that because of their unavailability due to pre-arranged travel plans for the last week of October and middle of November, and the unavailability of San Mateo Union High School District's expert and representative during staggered dates in November, the first available hearing date is December 3, 2019. The motion for reconsideration is granted.

On reconsideration, the parties have failed to present good cause to continue this matter to December 3, 2019. This matter has been pending for an exceptionally long period of time. San Mateo originally filed its case in April 2019. Student filed his initial request for due process on May 15, 2019. Although counsel are scheduled for a conflicting due process hearing in OAH case number 2019061061, that matter was filed

on June 24, 2019. This current matter, having been filed earlier, takes priority over the conflicting, subsequently filed matter. Any further scheduling conflicts beyond the first week of hearing can be addressed during the prehearing conference or at the time of hearing. Therefore, the request to continue this matter to December 2019 is denied.

ORDER

1. The parties' request for reconsideration is granted.
2. On reconsideration of the parties' request to continue the hearing date to December 3, 2019, the request is denied.
3. All dates remain pursuant to the September 16, 2019 Order Granting Request for Continuance and Setting Mediation, Prehearing Conference and Hearing Dates.

DATED: September 20, 2019

DocuSigned by:
Theresa Ravandi
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Theresa Ravandi
Administrative Law Judge
Office of Administrative Hearings