BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTIOCH UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018050914 ORDER GRANTING REQUEST FOR RECONSIDERATION AND REQUEST FOR CONTINUANCE

On September 13, 2018, the undersigned administrative law judge issued an order that denied District's request for a continuance on the grounds that good cause for the continuance had not been established. On September 18, 2018, the parties jointly filed a request for reconsideration of that order.

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.)

Good cause is always required for a 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; (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).)

It should not require the consideration of two motions for counsel to submit adequate evidence of good cause for a continuance. Neither declaration from Counsel explained why they did not follow the proper procedure initially. The information provided in the declarations accompanying the motion for reconsideration was not new information or information unavailable when the original motion was submitted. That said, in this instance, given the explanation for the need for this second continuance now provided, in the interests of justice, the motions for reconsideration and the continuance will both be granted. Counsel should not assume that future motions for reconsideration will be granted simply because the initial motion was incomplete.

ORDER

1. Motion for Reconsideration is GRANTED.

2. The jointly requested continuance is GRANTED. All previously scheduled dates are hereby VACATED. The new dates are:

Prehearing Conference: **November 19, 2018 at 10:00 a.m.**

Hearing **November 27, 28 and 29, 2018**

3. No further continuances will be granted in this matter absent extraordinary circumstances.

IT IS SO ORDERED.

DATE: September 19, 2018

DocuSigned by:
Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings