BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MOUNTAIN VIEW-LOS ALTOS HIGH SCHOOL DISTRICT.	OAH Case No. 2019050122 ORDER GRANTING REQUEST FOR RECONSIDERATION AND REQUEST FOR CONTINUANCE AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

On May 2, 2019, Student filed a request for due process hearing (complaint) in this case naming Mountain View-Los Altos High School District as respondent. On May 3, 2019, a Scheduling Order was issued setting hearing dates for June 25, 26, and 27, 2019.

On June 6, 2019, the parties jointly filed a request to continue the dates in this matter. No grounds for the continuance were stated. The request was denied that day. On June 7, 2019, Mountain View-Los Altos High School District filed a "Renewed Request for Continuance" with a declaration by its counsel regarding an upcoming vacation. Later that same day, Student's counsel filed a "Letter in Support re: Renewed Request for Continuance" asserting her belief that the first request for a continuance in a case did not require a showing of good cause. Both parties indicated that they had agreed to hearing dates in early September, 2019.

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.)

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. (34 C.F.R. § 300.515(a); Ed.Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure

Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs.,tit. 1, § 1020;Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal.Rules of Court, rule 3.1332(c).)

DISCUSSION

The "Renewed Request for Continuance" is being treated as a motion for reconsideration. Here, district's counsel's renewed request offers a declaration that she will be out of the country on a pre-planned, pre-paid vacation from June 14 through June 30, 2019. No explanation as to why that information was not provided with the initial request for continuance was offered. References were made by both parties to potential witness unavailability. However, neither side provided evidence of dates on which any witness was unavailable.

The declaration regarding Mountain View-Los Altos' attorney's vacation will be accepted in this instance as a basis for granting reconsideration. In future, the parties should not assume that an order will be reconsidered simply because they failed to attached necessary supporting documents with the original moving papers.

Good cause is always required in order to secure a continuance of a special education hearing. Stipulations to continuances of prehearing conferences or hearings are not allowed by the Office of Administrative Hearings. Here, Counsel's unavailability constitutes good cause for a continuance. However, the parties have not established good cause to continue the case to September.

The request for continuance is GRANTED. All previously scheduled dates in this matter are hereby VACATED. The new dates are:

Prehearing Conference:	July 8, 2019 at 10:00 AM
Due Process Hearing:	July 16, 17, and 18, 2019, then continuing day to day as needed at the discretion of the Administrative Law Judge.

All prehearing conference statements and any motions shall be filed three business days prior to the date of the prehearing conference or shall be accompanied by a declaration under penalty of perjury stating the reason why the documents were not timely filed.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to

continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: June 10, 2019

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