BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CUPERTINO UNION SCHOOL DISTRICT,	OAH CASE NO. 2013040122
PARENT ON BEHALF OF STUDENT, v. CUPERTINO UNION SCHOOL DISTRICT.	OAH CASE NO. 2013040122 ORDER DENYING REQUEST FOR RECONSIDERATION WITHOUT PREJUDICE

On May 28, 2013, the undersigned administrative law judge issued an order denying Student's motion to continue. On May 28, 2013, Parent on behalf of Student, filed a request for reconsideration. As the request is denied, no response from the Cupertino Union School District is required.

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.)

DISCUSSION AND ORDER

In consideration of the original request for consideration, the undersigned was provided information regarding Student's seizure disorder and the recent seizures that Student has experienced. However, no evidence was provided to establish that a medical recommendation required Parents to remain with Student to the extent that they could not

effectively prosecute this matter. Accordingly, the undersigned denied Student's request to continue.

In support of the request for reconsideration, Student has provided evidence of a new seizure that occurred on May 28, 2013. The allegation is supported by declaration for Parent. The undersigned is not unsympathetic to Student's medical condition. However, there is insufficient information to establish good cause for a continuance. There is neither a medical recommendation, nor sufficient information regarding Student's medical condition that would support the contention that Parents cannot prosecute this matter. Under the current representation by Parents, this matter is capable of remaining on calendar, but never reaching the hearing stage. At any given moment, Parents can allege that Student had a seizure, has a fever and therefore, Parents cannot attend a due process hearing. Without support of any documentation from a medical expert, Parents fail to establish good cause for a continuance.

Accordingly, Student's request for reconsideration is denied. However, it is denied without prejudice. At the hearing on May 29, 2013, the Parents may present any relevant evidence regarding Student's then current medical condition and renew their motion to continue. The administrative law judge at the hearing may consider any further evidence provided by Parents.

IT IS SO ORDERED.

Dated: May 28, 2013

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings