BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013070016
v.	ORDER GRANTING REQUEST FOR RECONSIDERATION AND GRANTING IN PART AND DENYING IN PART REQUEST FOR CONTINUANCE AND ORDER SETTING MEDIATION, PREHEARING CONFERENCE AND HEARING DATES
FOLSOM CORDOVA UNIFIED SCHOOL DISTRICT.	

This matter was filed on June 25, 2013. A continuance was granted in this matter on August 8, 2013. A second continuance was granted on October 22, 2013, for reasons including the completion of assessments and to allow the parties to hold an individualized education program (IEP) team meeting. On January 24, 2014, the parties filed a third joint request for a third continuance in this matter so that assessments may be completed and an IEP team meeting could be held. The third request for continuance contained a request for hearing dates in April 2014. The third request for continuance was denied on January 27, 2014, without prejudice. The parties were instructed to submit a joint request for a continuance with hearing dates within 30 days of January 27, 2014, should the parties request another continuance. Three mediation dates have been assigned and cancelled in this matter.

On January 28, 2014, the parties filed a motion to reconsider the January 27, 2014 Order denying request for continuance. The parties proposed a mediation date of February 20, 2014, a prehearing conference date of March 12, 2014, and hearing dates of March 18-20, 2014. The parties ask that the order requiring proposed hearing dates within 30 days of January 27, 2014, be reconsidered and a continuance granted. The parties state that the assessments have taken longer than anticipated and the IEP team meeting originally scheduled for January 2014, had to be rescheduled to mid-February. The parties believe that they have shown good cause for a third continuance because they have chosen February 20, 2014, as a mediation date and that hearing within 30 days of January 27, 2014, would require the parties to begin to prepare for hearing prior to mediation, would increase the costs of litigation and would conflict with hearings already on District's counsels calendar.

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.)

Here, the parties timely asked for reconsideration of the January 27, 2014 order denying request for continuance and requiring the parties to submit hearing dates within 30 days of January 27, 2014 if they request another continuance. The parties argue that they have scheduled an IEP team meeting on February 13, 2014, and wish to be able to mediate this case after the IEP team meeting is completed. The parties have requested mediation on February 20, 2014, a prehearing conference date of March 12, 2014, and hearing dates of March 18-20, 2014. The request for reconsideration is granted.

MOTION TO CONTINUE

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted in part and denied in part. All previously scheduled dates are vacated. The parties gave no specific information regarding the dates the assessments were contracted, or completion dates for the assessments referenced in the declarations attached to the motion to reconsider. The parties simply state that the assessments have taken longer than anticipated. The parties do not list what assessments are outstanding and the estimated dates of completion. The parties do have an IEP team meeting scheduled for February 13, 2014. Counsel for District also cites a conflict with other OAH cases currently scheduled for hearing on February 23-27 and March 3-6, 2014. However, both of the other OAH cases

were filed after this case and this case takes priority for hearing. Although the parties have cancelled mediation three different times in this matter, the parties' willingness and desire to meet in mediation is recognized. Therefore, the matter will be set as follows:

Mediation:	February 20, 2014, at 9:30 a.m.
Prehearing Conference:	February 21, 2014, at 1:00 p.m.
Due Process Hearing:	March 3, 2014, at 1:30 p.m. March 4-6, 2014, at 9:00 a.m. and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: January 30, 2014

/s/
MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings