

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ARCADIA UNIFIED SCHOOL DISTRICT.

OAH Case No. 2016030095

ORDER GRANTING REQUEST FOR
RECONSIDERATION; ORDER
GRANTING CONTINUANCE

On April 14, 2016, the Office of Administrative Hearings issued an order denying the parties' joint request for continuance of the due process hearing scheduled to begin on April 20, 2016. On April 18, 2016, Student filed a motion for reconsideration of that ruling. The motion is based on a declaration by Student's parent, who states that the family has been in Chile since March 24, 2016, and has not had the opportunity to consult with their attorney or prepare for hearing.

APPLICABLE LAW

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.)

DISCUSSION

Reconsideration and Continuance

OAH issued a scheduling order on March 2, 2016, setting the prehearing conference for April 11, 2016, and the first day of hearing for April 20, 2016. The parties were called on April 6, 2016, regarding the need to file their PHC statements. A paralegal from District called the OAH, indicating the parties were working on a settlement agreement. The PHC went forward as scheduled. During the PHC, Student's representative attempted to interrupt the proceedings to obtain a stipulation to continue the matter. Two days after the PHC, on April 11, 2016, the parties filed their joint stipulation to continue, without making the

necessary showing of good cause for the continuance. Finally, on April 18, 2016, Student's counsel, Abraham Labbad, submitted a motion to continue with parent's declaration.

The time for making a joint request for continuance is well in advance of the prehearing conference and, certainly, after the OAH has already inquired about the filing of PHC statements. After the PHC, Student was required to make a showing of good cause for continuance by way of declaration. It is expected that counsel present all their arguments in support of a continuance request, at one time, rather than in piecemeal fashion, with varying reasons to justify a continuance.

In the motion for reconsideration, Mr. Labbad does not indicate when he discovered his client was out of the country and unavailable for hearing or hearing preparation and why the motion was not filed earlier. Despite the foregoing, the new fact justifies reconsideration. The motion to reconsider is granted and the matter is continued to the dates set forth below.

ORDER

1. The request for reconsideration is granted.
2. The motion to continue is granted.
3. The hearing dates of April 20, 21, 26, and 27, 2016 are vacated.
4. The hearing¹ will proceed on July 26, 27, and 28, 2016. The hearing shall begin at 9:30 a.m. on the first day of hearing and at 9:00 a.m. on all other days, unless otherwise ordered.

IT IS SO ORDERED.

DATE: April 18, 2016

DocuSigned by:



COLE DALTON

Administrative Hearing

Office of Administrative Hearings

¹ The issues raised during the PHC and identified in the Order Following Prehearing Conference are the issues for hearing. The meet and confer date is moved to July 22, 2016.