

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

EUREKA UNION SCHOOL DISTRICT.

OAH CASE NO. 2013010321

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On August 29, 2013, the undersigned denied the parties' joint request for continuance on the grounds that they had failed to provide good cause for a continuance of this matter that would place the due process hearing over a year from the date of filing of the due process hearing request in this matter. On August 30, 2013, the parties' filed another request for continuance asking for a reconsideration of the August 29, 2013 order.

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 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. All dates are vacated. In support of their request for reconsideration, the parties have provided information regarding an upcoming medical evaluation of Student that may provide a new medical diagnosis which may impact the eligible disability for special education. A significant change in Student's qualifying disability, or the revelation of an additional disability, and special education needs may impact any remedy that Student would be entitled to should he prevail. The parties have also requested hearing dates earlier than those in their prior request for continuance. OAH remains concerned with the significant period of time that this matter has been pending. However, there is good cause for one final continuance and the request is granted. **There will be no further continuances in this matter.** This matter will be set as follows:

Mediation:	November 13, 2013, at 9:30 AM
Prehearing Conference:	December 20, 2013, at 10:00 AM
Due Process Hearing:	January 8 – 9, 2014, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: August 30, 2013

/s/

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