BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023020121

ORDER DENYING REQUEST FOR RECONSIDERATION OF DENIALS OF SECOND MEDIATION AND SECOND CONTINUANCE

JUNE 7, 2023

On February 3, 2023, Student filed a Request for Due Process Hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Manhattan Beach Unified School District as respondent. On March 8, 2023, the parties' joint requests for mediation and continuance were granted. The case was scheduled for hearing beginning May 23, 2023.

On May 11, 2023, Student's Motion to Amend the complaint was granted and timelines were reset. (20 U.S.C. §1415(c)(2)(E)(ii).) The hearing in this matter was scheduled for June 27, 2023. On June 1, 2023, the parties jointly filed a motion seeking

a second mediation, two months from the request, and a further, nearly four-month continuance of the hearing. That motion, filed as though it was a first request for continuance, without any statement of good cause for the extensive continuance sought, was denied on June 1, 2023.

On June 6, 2023, the parties jointly filed another joint motion for mediation and continuance. This motion sought the same mediation and hearing dates previously denied, and failed to offer any new facts or law justifying the lengthy third change to the hearing date. The parties' stipulation to a desire to hold a second mediation, to allow themselves more time to discuss settlement, and continue the hearing are not good cause for either a second mediation or a continuance of the length requested. No reason was offered for the lengthy hearing continuance requested.

RECONSIDERATION

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, generally within ten days. (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 no new facts or law are offered to justify the same request made previously. The parties seek the same dates denied in the prior order, specifically, to schedule a second mediation in August and a hearing the last week of September. No conflicts with the currently scheduled hearing dates are identified. No evidence of witness unavailability is offered. No explanation for why the mediation previously held did not

address issues in the amended complaint filed immediately following that mediation. Instead, the parties simply reiterate, in a drafted motion, as opposed to OAH's form, all of the same requests.

As previously noted, this case was filed in February of 2023. This high school student has already gone most of an entire school year without resolution of his educational program. A nearly eight-month delay between filing and hearing for this student requires specific evidence, of good cause.

The request is denied. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings