BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: TORRANCE UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013030530 ORDER DENYING MOTION FOR RECONSIDERATION

On June 18, 19 and 20, 2013, this matter proceeded to due process hearing. On June 20, 2013, District sought, and was granted a continuance until August 13, 2013, for an additional hearing day, to compel a witness' attendance via Superior Court process. On July 16, 2013, District filed a motion seeking a further continuance. District's motion sought additional time for Superior Court process, and stated that it had first filed its papers with the Superior Court on July 10, 2013. By Order dated July 20, 2013, the motion was denied, because District had not proceeded with reasonable diligence in the filing of its Superior Court paperwork from the June 20 hearing day until July 10, 2013, and had stated no explanation for the delay.

On July 24, 2013, District filed a document entitled "Response to Order Denying Request for Further Continuance and Request for Further Continuance," which is treated as a Motion for Reconsideration. On July 25, 2013, Student filed an opposition. As discussed below, the Motion for Reconsideration is denied. The scheduled August 13, 2013, hearing date is confirmed, and shall proceed as calendared.

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.)

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).)

DISCUSSION

District's motion for reconsideration is denied. District provides further facts regarding its Superior Court filings, which explain that District's papers were first filed on July 5 and then re-filed due to Superior Court requirements on July 10, and provides further facts regarding the Superior Court calendaring process. Nevertheless, it still appears that District did not proceed with reasonable diligence. Rather, District delayed the filing of its Superior Court paperwork from June 20 until July 5, 2013. District has still stated no explanation for why it delayed the filing of its Superior Court paperwork approximately 15 days, from June 20 until July 5, 2013. Moreover, District is still seeking an indefinite delay in this matter, for which it has not established good cause.

Finally, District requests that the August 13, 2013, hearing day be taken off calendar as no additional witnesses are scheduled for that day, apart from the witness whose appearance was to be compelled. This request is denied. The final hearing day shall be devoted to closing arguments, which shall be taken orally on the record on that date.

ORDER

1. District's request for further continuance is denied.

2. The remaining hearing date is confirmed and shall proceed as calendared. The parties shall be prepared to orally present their closing arguments on the record on August 13, 2013, at which time the record will be closed and the matter submitted.

Dated: July 25, 2013

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings