BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LAFAYETTE SCHOOL DISTRICT.

OAH CASE NUMBER 2019110591

ORDER GRANTING REQUEST FOR RECONSIDERATION AND GRANTING THIRD REQUEST FOR CONTINUANCE

MAY 20, 2020

On May 19, 2020, the undersigned Administrative Law Judge issued an order denying the parties' third joint request for continuance. On May 20, 2020, Student filed a Motion for Reconsideration of that denial. On May 21, 2020, Lafayette filed Notice of Non-Opposition.

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, 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.)

MOTION FOR RECONSIDERATION GRANTED

The undersigned acknowledges that she erroneously stated that claims related to Lafayette Unified School District began in 2019 and for purposes of clarification, grants Student's motion for reconsideration. Student's counsel has also represented that Mother is pregnant and expecting to deliver a baby at the end of May. This was not previously addressed and constitutes grounds for reconsideration.

MOTION FOR CONTINUANCE GRANTED

This case was filed November 15, 2019. Although referred to as the "second" joint request for continuance, this is actually a third request; the first having been a request for continuance on December 20, 2020, so the parties could mediate the case. The parties decided not to proceed with mediation because Independent Educational Evaluations that were agreed to prior to the filing of the complaint, according to counsel's representations, had not been completed. As a result, the second request for continuance was granted on March 2, 2020. The parties' March 2, 2020 request for continuance did not mention that Mother was pregnant or that Mother might not be available for the early June 2020 hearing dates requested.

This third request for continuance seeks a delay in resolution of Student's case until October 2020, nearly a year after the request for due process was filed again on the basis of the inability to complete the IEE process. Good cause for this length of a continuance has not been established.

The continuance motion both states that IEE reports were not completed and that assessments were not completed. No evidence has been submitted establishing the actual cause of the delay or how it may be remedied in the future. No specific information about the dates scheduled for IEEs was provided. Regardless, neither future IEEs nor possible future IEPs are bases claimed for relief in this due process hearing request. The inability to complete IEEs or schedule a new IEP in this case do not and will not constitute good cause for a further continuance going forward. No changes to state or federally mandated special education due process hearing deadlines have been established due to the Covid-19 health emergency. Therefore, the legal requirement is still that any conflict regarding a child's educational program must be speedily resolved. (34 C.F.R. § 300.515(a); Ed.Code, §§ 56502, subd. (f), 56505, subd. (f)(3).)

Mother's unavailability is good cause to continue the case for 60 days. Hearing will be set for August.

ORDER

1. Student's request for reconsideration is granted.
2. The parties' joint request for a third continuance of this matter is granted due to the unavailability of Mother to participate in the hearing beginning June 2, 2020. All previously scheduled dates, including the Prehearing Conference scheduled for today, May 22, 2020 are vacated.
3. The Prehearing Conference in this matter will be scheduled for July 27, 2020 at 10:00 AM.
4. The Hearing in this matter is scheduled for August 4, 5, and 6, 2020. No

further continuances will be granted in this matter absent submission of evidence establishing extraordinary good cause.

IT IS SO ORDERED.



PENELOPE S. PAHL

Administrative Law Judge

Office of Administrative Hearings