BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

INGLEWOOD UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020120745

ORDER GRANTING REQUEST FOR RECONSIDERATION AND GRANTING REQUEST FOR CONTINUANCE

MAY 10, 2021

On December 21, 2020, Student filed a request for due process hearing with the Office of Administrative Hearings, referred to as OAH, naming Inglewood Unified School District as respondent. On February 1, 2021, the parties were granted a continuance to mediate their case. On May 3, 2021, the parties jointly filed a request for continuance of the prehearing conference and hearing based on the need to wait for results from an assessment. On May 4, 2021, the undersigned Administrative Law Judge issued an order denying the requested continuance due to a lack of demonstrated good cause. On May 10, 2021, the parties jointly filed request for reconsideration of the order denying their requested continuance.

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.)

The parties have offered new facts to support reconsideration in that an illness prevented the psychologist intern preparing the report from completing it sooner. Counsel for Student notes that she is unavailable on May 18 and 19, 2021 due to a religious observance. Counsel also assert that the assessor is not available to testify May 18, 19, or 20, 2021. The fact that the parties failed to explain why this information was not provided in the original motion will be overlooked in this instance. The parties should not assume that multiple considerations of motions will be available in the future due to a failure to include complete information in the original filing. The motion for reconsideration is granted.

REQUEST FOR CONTINUANCE

The parties seek continuance based on the fact that a needed assessment report was delayed due to the assessor's illness. Additional bases for continuance include that the assessor is not available to testify on the scheduled hearing dates and that Counsel for Student is unavailable on May 18 and 19, 2021 due to a religious observance. The parties have also noted conflicts with other cases scheduled for hearings, none of which were filed earlier than the one under consideration here. Counsel for Student notes she

has family vacations planned for the weeks of June 21 and July 19, 2021. Counsel for Inglewood has noted that she has multiple trips planned over the summer but failed to provide any dates. She also notes that Inglewood is on summer break during July. The parties seek a continuance to October, 2021 but, again, fail to offer good cause for such a lengthy continuance.

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Counsel have stated that they will receive the report by May 12, 2021. A continuance will be granted to give the parties the opportunity to review the report and prepare for hearing. However, the lengthy continuance the parties requested has not been supported and will not be granted. All cases noted as conflicts were filed well after this case. As stated in the original order denying this request, earlier filed cases, such as this one filed in December 2020, take priority over later filed cases. No information was provided as to other conflicts with the assessor's availability for hearing or as to any other Inglewood witness. The fact that the district is on summer break in July does not constitute good cause for a continuance of the hearing. No information was provided regarding Inglewood's counsel's travel plans.

The parties' request for continuance is granted. The previously scheduled hearing dates are hereby vacated. Hearing will be conducted on June 8, 9, and 10, 2021. Absent a settlement, a continuance may be sought for the later-filed case based on the priority of this one.

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. After the scheduled dates, the hearing shall continue day to day, including Mondays and Fridays, as needed at the discretion of the Administrative Law Judge. The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure their availability to testify. Good cause for witness unavailability is not established by failing to properly notify or subpoena a witness.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings