BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CAMPBELL UNION SCHOOL DISTRICT, CALIFORNIA DEPARTMENT OF EDUCATION AND CALIFORNIA SCHOOL FOR THE DEAF.

OAH CASE NUMBER 2022050685

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING REQUEST FOR CONTINUANCE

OCTOBER 17, 2022

On October 13, 2022, the undersigned Administrative Law Judge or ALJ, held a further prehearing conference in this case. During that prehearing conference, counsel for California Department of Education and California School of the Deaf, Len Garfinkel, informed the ALJ that he had a conflict with the hearing date of October 27, 2022. The ALJ was informed that a settlement conference had been scheduled, at some time during the week prior to the beginning of this hearing, that required Mr. Garfinkel's presence in federal district court. The undersigned ALJ ruled that the scheduling of a

settlement conference for a date Mr. Garfinkel was already scheduled to be in hearing in this case did not constitute good cause for continuance of the hearing.

On October 14, 2022, Mr. Garfinkel filed a "Letter to Judge Pahl" that reiterated the details of the court appearance constituting a conflict that he had presented during the prehearing conference. Proof of service indicates the letter was served on opposing counsel. The letter did not request an action. This is being treated as a request for reconsideration of a denied continuance.

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.)

While no additional facts, circumstances, or law have been provided, reconsideration of the prior ruling is granted to fully explain the denial of the request for continuance. No documents from the Central District of California have been provided documenting the conflict, and no declaration as to the reason why the settlement conference was scheduled on a date Mr. Garfinkel was already scheduled to be in a hearing, that he knew would extend for more than a week, was provided. This hearing has been on calendar since September 16, 2022. This is a hearing that requires interpreters that have proven challenging to secure. Thus, is it critical this case proceed and that days be fully utilized.

Mr. Garfinkel's presence in this hearing is not mandated on the afternoon of October 27, 2022. Two other attorneys from his office have appeared in this case on behalf of California Department of Education and California School for the Deaf on the first day of hearing and for the further prehearing conference. Should Mr. Garfinkel need to attend this settlement conference, he is excused to do so. However, the case will not be continued for a settlement conference that was scheduled, by his own admission, when this hearing was already on calendar.

ORDER

California Department of Education and California School for the Deaf have not established that a continuance for the afternoon of October 27, 2022 should be granted. The request for continuance is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings