BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SANTA BARBARA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010570

ORDER DENYING REQUEST FOR RECORD, GRANTING REQUEST FOR RECONSIDERATION, AND GRANTING REQUEST FOR CONTINUANCE

FEBRUARY 10, 2022

On February 9, 2022, the undersigned Administrative Law Judge issued an order granting the parties' joint request for mediation and denying a continuance based on a failure to state good cause for the continuance when the mediation date the parties requested was before the currently scheduled prehearing conference.

On February 9, 2022, Student filed a motion for reconsideration and request for a copy of a voicemail message Student's attorney left for the Office of Administrative Hearings, called OAH, on February 6, 2022. OAH has not yet received any response from Santa Barbara Unified School District.

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.)

DISCUSSION AND ORDERS

Student's request for a copy of a voicemail message left by Student's attorney is DENIED.

Student offers new facts, circumstances, or law to support reconsideration, specifically the fact that Student's attorney's illness has prevented her from working on this case and others. Although these facts could and should have been presented in the original request for a continuance, they have finally been included as the justification for a delay of the due process hearing. The motion for reconsideration is GRANTED.

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. (Ed. Code, § 56505, subd. (f)(3); 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 or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

The request for continuance is GRANTED for good cause. The case shall proceed as follows:

Prehearing Conference: March 11, 2022, at 1:00 PM.

Due Process Hearing: March 29 and 30, 2022. There will not be hearing on March 31, 2022, as the parties requested, because the State if closed in observance of Cesar Chavez Day.

The hearing shall begin at 9:30 AM on all days, unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

Hearing Location: Telephone or video conference

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available

to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings