BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GILROY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023110253

ORDER GRANTING REQUEST FOR RECONSIDERATION AND ORDER GRANTING MOTION TO RESCHEDULE MEDIATION AND CONTINUE DUE PROCESS HEARING

On January 26, 2024, the Office of Administrative Hearings denied the parties' motion to reschedule mediation and continue due process hearing. On January 30, 2024, the parties jointly and timely filed another "Joint Motion to Reschedule Mediation and Continue Due Process Hearing," which is treated here as a motion for reconsideration of the prior order.

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

Through declaration, counsel for Student offers new facts to support reconsideration. In particular, the declaration corrects erroneous dates set forth in the parties' previous request to reschedule mediation. The motion denied by OAH included an incorrect date of the canceled mediation as well an incorrect reason why counsel for Student canceled the mediation. Counsel's present declaration addresses the correct canceled date for mediation and the reason it was canceled. The motion for reconsideration is granted.

ORDER

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).)

The parties have not yet participated in mediation. On reconsideration, good cause exists to reschedule mediation to March 15, 2024, and to continue due process

hearing. The parties did not, however, establish good cause for the length of continuance of hearing they requested.

MEDIATION will be held on March 15, 2024, at 9:00 AM to 4:30 PM.

PREHEARING CONFERENCE will be held on March 22, 2024, at 10:00 AM.

DUE PROCESS HEARING will be held on April 3, and 4, 2024. Hearing will not be held on April 2, 2024, due to the state holiday earlier that week. The hearing will continue day to day, as needed, Mondays and Fridays included, at the discretion of the Administrative Law Judge.

The mediation, prehearing conference, and due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the hearing dates, and must subpoena witnesses, if necessary, so they are available to testify. Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

IT IS SO ORDERED.

Claire Yazigi

Claire Yazigi
Administrative Law Judge
Office of Administrative Hearings