BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CHAFFEY JOINT UNION HIGH SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2018050543 ORDER DENYING REQUEST FOR RECONSIDERATION OF ORDER DENYING SECOND REQUEST FOR CONTINUANCE

Chaffey Joint Union High School District filed a request for due process on May 11, 2018, naming Parents on behalf of Student. On May 23, 2018, Student filed a request to continue the due process hearing so that his parents could obtain legal representation. Student requested a 30 to 45 day continuance. On May 25, 2018, during the scheduled telephonic prehearing conference in this matter, Administrative Law Judge Rommel P. Cruz, granted Student a 45-day continuance over Chaffey's objection. ALJ Cruz continued the prehearing conference to July 9, 2018, and the due process hearing to July 17, 2018.

On July 9, 2018, Student filed a second request for continuance based on his inability to have obtained legal representation. During the telephonic prehearing conference that same day, ALJ Cruz denied the motion to continue. He indicated that he had given Student ample time to find an attorney.

On July 16, 2018, the day prior to the start of the due process hearing, Student filed a motion to reconsider the denial of his second motion to continue. Student supported the motion with a declaration by his father. Father stated that he contacted several attorneys who are not available for the hearing as presently scheduled. Father did not include the dates he contacted the attorneys he named in his declaration. Nor did he include a declaration from any of them indicating when they would be available for hearing, or any indication that any of the attorneys would actually agree to represent Student.

Father also stated in his declaration that he took ill on July 12, 2018[1], and was taken to see an urgent care doctor. The doctor prescribed pain medication and ordered Father off work for three days. The doctor's note says that Father may return to work on July 15, 2018.

[1] Father incorrectly identified the date a Thursday, July 13, 2018, but his doctor's note is dated for July 12, 2018.

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. (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

Reconsideration

Student fails to raise new facts in support of continuing this matter based on his parents' attempts to hire an attorney. Student fails to include the dates Parents contacted attorneys, and fails to state that any of the attorneys contacted would agree to accept his case. Importantly, Student was given six weeks to find an attorney prior to the prehearing conference on July 9, 2018, the maximum time he requested for a continuance. Student's motion for reconsideration does not raise any new facts regarding that search that were not available for ALJ Cruz's consideration on July 9, 2018, at the prehearing conference.

With regard to Father's medical excuse, his doctor's note indicates that Father was able to return to work by Sunday, July 15, 2018, two days before the hearing in this matter is scheduled to begin. Student therefore offers no present medical reason supported by a doctor's directive for continuing the hearing presently scheduled to begin on July 17, 2018. If Father has a medical appointment scheduled for any given day, he may present evidence of that to the ALJ at the start of the hearing by way of a doctor's note indicating the date and time of the appointment, and request that the hearing start late or end early on the day of the appointment. The ALJ hearing this case will consider such a request at that time.

For these reasons, Student's motion for reconsideration of the denial of his second request for continuance is DENIED.

ORDER

1. Student's motion for reconsideration is denied.

2. This hearing will proceed as scheduled beginning on July 17, 2018, at 9:30 a.m.

DATE: July 16, 2018

DocuSigned by:
Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings