

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2019010254
v.	
LOS ANGELES UNIFIED SCHOOL DISTRICT,	
LOS ANGELES UNIFIED SCHOOL DISTRICT,	OAH Case No. 2019020545
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING REQUEST FOR RECONSIDERATION AND SETTING ADDITIONAL HEARING DATE

On April 22, 2019, the undersigned administrative law judge issued a prehearing conference order that granted a continuance of the hearing to May 14, 2019. On April 26, 2019, Student's attorney filed a motion for reconsideration, requesting clarification of the assigned hearing dates. Given the nature of the motion, OAH does not require a response from Los Angeles 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. (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.)

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.)

DISCUSSION

Reconsideration

Student's motion asserts that during the PHC the parties discussed the availability of Student's expert's witness on either May 21 or May 23, 2019. The undersigned granted a continuance of the hearing dates, setting the hearing for three days, May 14-16, 2019, with the instructions to the parties to meet and confer regarding witness scheduling, and with a directive to Student's attorney to consider serving a subpoena on Student's expert for May 21, 2019, to ensure the witness would be available on that date. Based upon the parties' estimates of five days for hearing, the undersigned ordered that additional hearing dates would be considered on the first day of hearing, taking into consideration Student's request for May 21 or May 23, 2019 for expert testimony.

Student's attorney now asserts that in order to serve a subpoena on Student's expert, Student requires certainty that OAH will set May 21, 2019, as a hearing date. The motion for reconsideration is timely, and raises a new fact regarding Student's intention to subpoena the expert witness for a date certain. Accordingly, the motion to reconsider is granted.

Prehearing Conference Order

On reconsideration, the undersigned has considered the request to add a hearing date to the assigned dates for hearing stated in the PHC Order issued on April 22, 2019. Based on Student's counsel's representation that she intends to subpoena her expert witness for May 21, 2019, and on the discussion between the parties where that date was discussed as part of Student's request for continuance, OAH will add May 21, 2019, as an additional hearing date beginning at 9:30 a.m. unless otherwise ordered. On the first day of hearing, the parties shall be prepared to discuss the need for any additional hearing dates upon presentation of their proposed joint witness schedule to the hearing ALJ and after meeting and conferring on proposed dates.

IT IS SO ORDERED.

DATE: April 26, 2019

DocuSigned by:

Adrienne L. Krikorian

ADRIENNE L. KRIKORIAN

Administrative Law Judge

Office of Administrative Hearings