

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

DEL MAR UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2020120692

ORDER DENYING REQUEST FOR RECONSIDERATION

AUGUST 04, 2021

On July 13, 2021, the undersigned Administrative Law Judge issued an order denying a further continuance and dismissing the Student's case with prejudice. On July 26, 2023, Parent on behalf of Student filed a Motion for reconsideration. On July 28, 2021, Del Mar Union School District filed an opposition.

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

The factual background related to this case and the dismissal is set forth in great detail in the Order of July 13, 2021. In addition, several of Parent's arguments were addressed in the July 13 written order, and Parent has not submitted new evidence which would impact those issues. As such, the following facts are relevant only to Parent's motion for reconsideration.

At the time of hearing on July 13, 2021, Parent advised the Administrative Law Judge, on the record, referred to as ALJ, that she had not slept for the last two days, and was unprepared to proceed with the next witness. Parent now asserts that she was in fact suffering from a debilitating medical condition which prevented her from proceeding. As Del Mar Union argues in its opposition, Parent attended the two previous hearing days, and was in attendance on July 13, 2021 when she terminated Student's attorneys on the record. During none of these hearings, did Parent or Student's counsel indicate she was ill.

Parent's argument that she should not have been required to reveal personal medical matters on the record misses the point. That was never required of her. Notwithstanding her assertion that she told the ALJ multiple times she was suffering from an illness, Parent in fact made no mention, whatsoever, of any medical condition at the hearing. Had she done so, and provided some verification under oath or a letter

from her physician, then the ALJ would have certainly considered that evidence with regard to a brief continuance. Even in her current filings, she provides no tangible verification that this medical condition prevented her from proceeding.

Parent also argues in her Motion to Reconsider that the ALJ incorrectly found that she asked for “a long continuance.” This is erroneous, as Parent offered no time period at all on a potential continuance. The crucial fact glossed over by Parent is that Student was represented by two attorneys the morning of the hearing. Parent represented to the ALJ and District’s counsel on July 7, 2021, that Parent intended to proceed with the hearing and agreed that Ms. Bayne and Mr. Alguire represented Student. The hearing proceeded for two days. Despite this, Parent continued to file motions in the matter and then abruptly terminated each attorney on July 13, while a witness was pending and all counsel and the ALJ were prepared to begin.

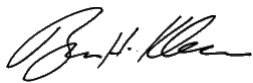
Parent was vague on the record about how Parent intended to proceed, and did not offer any reasonable alternative to the ALJ. Other than alleging that Student’s terminated counsel failed to communicate with her and that Parent had not received any documents, Parent offered the ALJ no assurance that she had retained counsel prepared to take over or that she needed a short period of time to be prepared.

Finally, Parent’s assertion that no prejudice to Del Mar Union exists is simply untenable. This matter was consolidated with Del Mar Union’s own case in May of 2021. Student’s counsel made no objection to consolidation. The matter proceeded to hearing with the parties intending to have both cases decided at one hearing. However, because of Parent’s multiple filings and her decision to terminate Student’s counsel in

Del Mar Union's case, the matters were unconsolidated and Del Mar Union's case was continued. None of this, nor the subsequent firing of counsel on July 13, was caused by Del Mar or its counsel's actions.

Parent has not established the July 13, 2021 Order should be reconsidered. The motion for reconsideration is denied.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Brian Krikorian".

Brian Krikorian

Administrative Law Judge

Office of Administrative Hearings