

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 2021060391

ORDER GRANTING MOTION FOR RECONSIDERATION,
AND GRANTING IN PART, AND DENYING IN PART,
MOTION FOR CONTINUANCE

AUGUST 30, 2021

On August 30, 2021, the undersigned Administrative Law Judge issued an Order Denying Request for Mediation and Granting Continuance and Setting Prehearing Conference, and Hearing. On August 30, 2021, Student filed a Motion for Reconsideration to Continue Due Process Dates. The Office of Administrative Hearings did not receive a 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

In the Motion for Reconsideration Student offered the new fact that Student's attorney is engaged in a matter in Federal Court on September 28, 2021. Student's attorney states she does not know if that matter will proceed longer than one day. In Student's previous motion requesting mediation Student stated that both parties were available on September 29, 2021, and September 30, 2021. Based on the new fact, 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).)

OAH has reviewed the request for continuance of the hearing for good cause and considered all relevant facts and circumstances. Student's request to continue the hearing from September 28, 2021, is granted in part, and denied in part. There is good cause to continue the hearing from September 28, 2021, to September 29, 2021, through September 30, 2021. There is not good cause to continue the hearing to mid-November, 2021. The fact that a hearing in another OAH matter is set for October 5, 2021, through October 7, 2021, does not constitute good cause to continue the hearing in this matter to November 16, 2021, through November 18, 2021.

ORDER

Student has established that the August 30, 2021 ruling continuing the hearing to begin on September 28, 2021, should be reconsidered. The motion for reconsideration is granted. The hearing is continued to begin on September 29, 2021.

All other dates set in this matter are confirmed.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings