

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CHULA VISTA ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2021090721

ORDER DENYING REQUEST FOR RECONSIDERATION

NOVEMBER 30, 2021

On November 8, 2021, the undersigned Administrative Law Judge issued an order continuing the due process hearing in this matter for approximately 30 days due to the unavailability of Student's teacher, a key witness. On November 29, 2021, Student filed a motion for reconsideration. On November 29, 2021, Chula Vista Elementary School District filed a notice of intent to file opposition, but since OAH is denying Student's reconsideration motion no written opposition from Chula Vista is required.

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.)

Student argues that the ALJ was incorrect in finding no prejudice to Student from the continuance. Student offers no new facts, circumstances or law to support reconsideration. The undersigned ALJ heard Student's arguments regarding prejudice on the record at the prehearing conference on November 8, 2021 and expressly found:

There is no prejudice to Student for three reasons. First, Student also needs the teacher to prove up Student's case. Second, the continuance is relatively short. And third, Student matriculated from Chula Vista's elementary school district over one year ago, in June 2020, and Student will not be denied a free appropriate public education by the continuance.

Student has not established that the November 8, 2021 Order should be reconsidered. The motion for reconsideration is denied.

To the extent Student contends that the undersigned ALJ misapplied the law, that is not a basis for reconsideration, but for seeking review, if and to the extent available.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings