BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CENTINELA VALLEY UNION HIGH SCHOOL DISTRICT, LOS ANGELES COUNTY OFFICE OF EDUCATION, SOUTHWEST SPECIAL EDUCATION LOCAL PLAN AREA, COMPTON UNIFIED SCHOOL DISTRICT AND CALIFORNIA SCHOOL FOR THE DEAF (RIVERSIDE).	OAH Case No. 2019050884 ORDER GRANTING MOTION FOR RECONSIDERATION, DENYING MOTION FOR MEDIATION AND CONTINUANCE, VACATING JUNE 12, 2019 ORDER, AND CONFIRMING DATES IN SCHEDULING ORDER

On May 16, 2019 Student filed a request for due process naming five respondents. The Office of Administrative Hearings issued a May 21, 2019 scheduling order, setting the matter for hearing on July 9, 10, and 11, 2019. All respondents gave notice of representation.

On June 12, 2019, Student's attorney filed a Request to Set Mediation and for Continuance of Initial Due Process Hearing on an OAH form designed for the joint request of dates mutually agreed upon by all parties. The filing included two copies of the joint form request, with separate signatures, which OAH staff and Administrative Law Judge Clifford H. Woosley erroneously believed included all parties. ALJ Woosley granted the request, setting mediation for June 28, 2019 and continuing the hearing to August 12, 13, and 14, 2019.

On June 12, 2018, respondent Southwest Special Education Local Plan Area filed its opposition to motion to continue, in part. The opposition included copies of emails amongst the parties' attorneys regarding proposed mediation and continued hearing dates. Though the parties appeared to have agreed upon June 28, 2019 for mediation, Southwest SELPA could not accept the proposed continued hearing dates because of witness unavailability.

Southwest SELPA's opposition to motion was not received until after OAH issued an order granting the request for mediation and continuance on June 12, 2019. Therefore, Southwest SELPA's opposition is considered a motion for reconsideration, withdrawal of the order, and denial of the continuance request.

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. (34 C.F.R. § 300.515(a); Ed.Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs.,tit. 1, § 1020;Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal.Rules of Court, rule 3.1332(c).)

DISCUSSION

Reconsideration

Southwest SELPA indicates that it was not in agreement with the June 12, 2019 request. The email exchanges clearly establish the request was not signed by all parties, as erroneously believed by OAH staff and ALJ Woosley. The filing of the OAH form was a misrepresentation since the form clearly states that it is to be used only if all parties have mutually agreed to the proposed dates. This is information that needed to be considered in ruling upon the request and, therefore, reconsideration is granted.

Continuance

Student's filing of the joint request for mediation and continuance of hearing improperly represented that all parties agreed to the requested dates. Southwest SELPA had not agreed. A party seeking continuance must file a motion and establish good cause for a continuance over the objection of another. The joint request filed by Student's counsel does not contain any information as to why a continuance should be granted over Southwest SELPA's objection. Upon reconsideration, the request for continuance is denied for lack of good cause.

Also, the request for mediation is not signed by all parties. Mediations are set with the mutual agreement of all parties. Upon reconsideration, the request for mediation is denied.

Therefore, the June 12, 2019 OAH Order is vacated. The dates set in the May 21, 2019 Scheduling Order are confirmed. The prehearing conference is scheduled for 3:00 p.m., July 1, 2019, and the due process hearing is scheduled for July 9, 10, and 11, 2019.

ORDER

1. The motion for reconsideration is GRANTED.

2. The request to set mediation is DENIED

3. The request for a due process hearing continuance is DENIED.

4. The June 12, 2019 OAH order granting mediation and due process hearing continuance is withdrawn.

5. The prehearing conference and due process hearing dates set forth in the May 21, 2019 scheduling order are reinstated.

IT IS SO ORDERED.

DATE: June 13, 2019

DocuSigned by:

3EEE11185C9F48D...

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings