BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

DAVIS JOINT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022040464

# ORDER GRANTING REQUEST FOR RECONSIDERATION; ORDER GRANTING CONTINUANCE

JULY 27, 2022

On July 20, 2022, the undersigned Administrative Law Judge issued an order denying the parties' second joint request for mediation and a continuation of the due process hearing on the basis that the parties failed to provide good cause for a continuance. On July 21, 2022, Student filed a motion for reconsideration. The Office of Administrative Hearings did not receive a response from Davis Joint 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.)

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).)

## DISCUSSION

Student offers new facts to support reconsideration. Student is requesting a continuance of the matter because the parties are discussing a potential settlement of that matter involving a new placement for the Student. The placement at issue is closed during the summer months and the parties require additional time to investigate and discuss this potential alternative placement. As Student has provided new information establishing good cause for a continuance, the motion for reconsideration and continuance request are granted.

## ORDER

On reconsideration, the parties joint request for a mediation and continuance of the due process is granted.

MEDIATION DATE is September 12, 2022, 9:00 PM to 4:30 PM.

MEDIATION will occur via telephone or video.

PREHEARING CONFERENCE will be held on September 30, 2022, at 1:00 PM.

DUE PROCESS HEARING will be held on October 11, 2022, through

October 13, 2022.

ANY CHANGES TO PARTICIPANT INFORMATION SHEETS FOR MEDIATION AND PREHEARING CONFERENCES MUST BE FILED TWO BUSINESS DAYS PRIOR TO THE DATE OF THE SCHEDULED EVENT.

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why it was not timely filed.

IT IS SO ORDERED.

*Cararea Lucier*

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings