BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022030711

ORDER DENYING REQUEST FOR RECONSIDERATION

MAY 19, 2022

On May 11, 2022, on the record during the due process hearing, the undersigned Administrative Law Judge sustained Los Angeles Unified School District's objection to Student's May 6, 2022 Second Notice of Additional Witnesses, finding Student did not timely disclose 12 named witnesses five business days before the start of the due process hearing as required by Education Code section 56505, subdivision (e)(7), and despite providing a declaration under penalty of perjury in support of the tardy notice of additional witnesses, Student failed to establish good cause for the untimely disclosure or for the testimony of the witnesses. Student also attempted to add, through the Second Notice of Additional Witness, an unspecified number of undisclosed witnesses, who Student expected to be those with "Names to be provided by LAUSD."

The Administrative Law Judge did not allow Student to call the 12 named and other unnamed witnesses.

On May 17, 2022, Student filed a "Petitioner's Request for Reconsideration of Order Sustaining District's Opposition to His Request to File Second Notice of Additional Witnesses; Memorandum of Points and Authorities." Also on May 17, 2022, Los Angeles Unified filed an opposition to Student's motion for reconsideration.

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

Student offers no new facts, circumstances, or law to support reconsideration. Further, any additional argument Student attempts to present in his Motion for Reconsideration could have, with the exercise of reasonable diligence, been presented in Student's May 6, 2022 Second Notice of Additional Witnesses and accompanying Declaration of Student's attorney. Notably, Student's attorney declared in support of

the untimely disclosure of 12 named witnesses and an indeterminate number of as-yet-unnamed witnesses that "[t]hese witnesses are most likely material witnesses to the matter at hand, since the 1/14/2022 IEP was a triennial IEP and a re-evaluation of Student's file." One of the proposed additional witnesses was the Superintendent of Los Angeles Unified. Student's conclusory characterization of the additional witnesses as "most likely material" involved no particularized or specific analysis regarding each or any witness, and, at best, weakly asserts a likelihood of necessity of any specific witness's testimony.

In his Motion for Reconsideration, Student attempts to recharacterize the 12 named, and indeterminate number of unnamed, witness as "essential to his case." Student again invokes a conclusory label without any explanation particularized to each or any witness, and still failed to show how any additional witness was necessary for Student's presentation of his case. Student failed to show how he would be prejudiced if he was not allowed to present testimony of any one, let alone all, of these witnesses. Further, Student failed to demonstrate any good cause for failing to provide the individualized analysis of necessity and prejudice in the May 6, 2022 Second Notice of Additional Witnesses and supporting Declaration by Student's attorney. Student's assertion any additional witnesses on the May 6, 2022 list are "essential" is betrayed by the fact that Student's attorneys did not think to include these 12 people, and an unknown number of other unnamed people, as part of presenting Student's case until just before the hearing. The attorneys representing Student had plenty of time to prepare for hearing after they filed this case on March 21, 2022, and if they required additional time to prepare, they could have requested a continuance, but did not.

ORDER

Student has not established the May 11, 2022 ruling should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings