BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019100553

ORDER GRANTING STUDENT'S REQUEST FOR RECONSIDERATION; ORDER GRANTING IN PART STUDENT'S REQUEST FOR CONTINUANCE

MAY 04, 2020

On April 30, 2020, the undersigned Administrative Law Judge issued an order that denied the parties' joint request to continue the hearing in this matter until November 2020. On May 4, 2020, Student filed a request for reconsideration. The Office of Administrative Hearings did not receive a response from Irvine 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

The motion for reconsideration was filed within a reasonable time after the initial Order was issued. Student offers new facts, circumstances or law. to support reconsideration. Accordingly, Student's motion for reconsideration is granted.

While Student puts forth additional facts concerning Parent's difficulty in participating in a videoconference prehearing conference and due processing, OAH cannot continue this matter indefinitely to meet Parent's wishes. OAH has no assurance that an in person could occur in November 2020, and therefore must proceed pursuant to the timeline requirements of the Individuals with Disabilities Education Act. To address Parent's concerns regarding his hearing, OAH will provide real time transcription. Accordingly, this matter will proceed to hearing on June 16 through 18, 2020, which will give Parent time to prepare for hearing.

ORDER

1. Student's motion for reconsideration is granted.
2. Student's request for a continuance is granted in part. The prehearing conference in this matter is now scheduled for June 8, 2020, at 1:00 PM. The hearing is continued to June 16, 2020, through June 18, 2020.
3. 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 possible to file the motion by that date. Parties shall notify all witness of the new dates for hearing.

IT IS SO ORDERED.



Peter Paul Castillo

Presiding Administrative Law Judge

Office of Administrative Hearings