BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021100329

ORDER GRANTING REQUEST FOR RECONSIDERATION AND REPHRASING ISSUE 2 OF THE APRIL 25, 2022, ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE

APRIL 29, 2022

On April 25, 2022, the undersigned Administrative Law Judge issued an order at the prehearing conference setting forth the issues to be decided at hearing, which are listed in the April 25, 2022, Order Following Prehearing Conference for Hearing by Videoconference. On April 29, 2022, Parents on behalf of Student filed an objection to the ALJ's rephrasing of Student's Issue 2 as plead in Student's second amended complaint. Student requests reconsideration of Issue 2 as written in the April 25, 2022,

Order. The Office of Administrative Hearings did not receive a response from Grossmont Union High 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.)

DISCUSSION

In effort to clarify the issues for hearing, without limiting or expanding the claims raised in Student's second amended complaint, the ALJ indicated at the April 25, 2022 prehearing conference that the parties may file a motion for reconsideration of the issues as clarified by the ALJ and the parties, and written by the ALJ. Accordingly, the request for reconsideration is granted.

Student requests that Issue 2 be rephrased to remove reference to Education Code section 56325, subdivision (a)(2), as Student did not intend to raise that claim solely under section 56325, subdivision (a)(2). Issue 2 of Student's second amended complaint did not specifically reference Education Code section 56325, subdivision (a)(2). Upon reconsideration, the ALJ grants Student's request to rephrase Student's Issue 2. Issue 2 shall read:

Did Grossmont Union deny Student a free appropriate public education, called FAPE, by failing to offer Student a comparable program, by offering Student general education courses at the April 14, and May 12, 2021, IEP team meetings?

Student carries the burden of persuasion as to the issues to be decided at hearing and must demonstrate the applicability of legal authorities Student intends to rely on to support Student's contentions. Student must be prepared to provide the ALJ at the start of the hearing, the legal authorities Student intends to rely on to support Student's Issue 2 contention.

ORDER

On reconsideration, Issue 2 of the April 25, 2022, Order Following Prehearing Conference for Hearing by Videoconference is rephrased as stated above. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings