BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022060478

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING REQUEST TO CONTINUE

OCTOBER 17, 2022

On September 22, 2022, the undersigned Administrative Law Judge granted a continuance of the Due Process hearing. The continuance was based on the assurances of Student's counsel that San Diego's counsel had agreed to the continuance. On October 7, 2022, San Diego filed a request for reconsideration. The Office of Administrative Hearings did not receive a response from Student.

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

San Diego asserts at the time the continuance was granted they were unaware a key witness would be unavailable during the November 1-3, 2022 due process hearing. San Diego argues the unavailability of this key witness is a new fact, circumstances or law to support reconsideration. San Diego argues due to the unavailability of this key witness that an additional hearing day be added in December when the witness ostensibly will be available.

The motion for reconsideration is granted. Scheduling for due process hearings are handled by the administrative law judge on the first day of hearing. San Diego's request to add an additional day in December, five weeks after the hearing commences is an improper use of the reconsideration process.

ORDER

On reconsideration, San Diego's motion for reconsideration is granted. San Diego's request to schedule an additional date in December is denied. All scheduling matters will be discussed with the administrative law judge on the first day of hearing. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Oct 17, 2022 12:03 PDT)

Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings