BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

V.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020060079

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING MOTION TO CONTINUE

JANUARY 04, 2021

On December 28, 2020, the undersigned Administrative Law Judge issued an Order Denying Sacramento City Unified School District's Motion to Continue. On December 30, 2021, Sacramento City filed a Motion for reconsideration. On December 31, 2020, Student filed an opposition.

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

Here, Sacramento City states that its chosen representative for the hearing, Dr. Sadie Hedegard, the Assistant Superintendent of Special Education, Innovation, and Learning, will not be available for the hearing during the week of January 11, 2021. Typically, the SELPA director would be Sacramento City's representative at hearing. But Dr. Hedegard is Sacramento City's representative at hearing because the SELPA director position is unfilled. Dr. Hedegard is scheduled to conduct interviews for the SELPA director during the week of January 11, 2021. Dr. Hedegard is also scheduled to testify at hearing regarding Sacramento Unified's policies and procedures as they relate to the provision of special education. Sacramento City was unaware of Dr. Hedgard's unavailability at the time it made a motion to continue.

ORDER

Sacramento City has sufficiently established the December 28, 2020, Order should be reconsidered. The motion for reconsideration is granted.

DISCUSSION

Sacramento City asserts that the hearing of January 12, 2021, should be continued because its lead counsel, Sarah Garcia, will be in a hearing on another matter, beginning January 5, 2021, which will take eight hearing days. Further, Sacramento City's representative, Dr. Hedegard, will be unavailable during the week of January 11,

2021, because of interviews to fill the SELPA director's position. Dr. Hedegard will also be testifying at hearing. Therefore, Sacramento City argues that the hearing should be continued because its chosen lead counsel and representative are unavailable for hearing to begin on January 12, 2021.

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

The December 28, 2020 order denying the motion for continuance noted that this matter has been pending for more than six months. Sacramento City did not oppose any requested continuance. Sacramento City did not object to Student's November 2020 motion to amend complaint and was aware that the hearing would be rescheduled

for January 2021. OAH cautioned the parties that OAH would not be inclined to any further continuance, considering the length of time the matter has been pending.

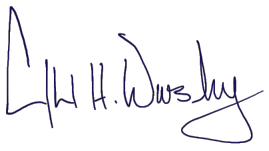
Sacramento City asserts that Ms. Garcia is unavailable before February 18, 2021, because counsel is engaged in other due process hearings. However, continuance to February 18, 2021, essentially continues the hearing to March 2021, because the week of February 22, 2021 is training week for the administrative law judges. Though the unavailability of Ms. Garcia and Dr. Hedegard support a continuance, delaying hearing to eight months after the initial filing is inappropriate and not in keeping with IDEA's public policy of efficient resolution of due process proceedings.

Sacramento City has not offered any other continuance date. Though Ms. Garcia may be scheduled for hearing in other matters until February 18, 2021, all those matters were filed months after this due process. As long as Sacramento City continues to insist that its counsel is not available to participate in hearing until February 18, 2021, the request to continue is denied.

ORDER

On reconsideration, Sacramento City's motion to continue the hearing to February 18, 2021, is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.



Clifford H. Woosley
Administrative Law Judge
Office of Administrative Hearings