BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN LORENZO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022060534

ORDER GRANTING REQUEST FOR RECONSIDERATION AND GRANTING REQUEST TO CONTINUE DUE PROCESS HEARING

OCTOBER 27, 2022

On October 26, 2022, the undersigned Administrative Law Judge issued an order placing the matter back on calendar and scheduled the due process hearing to begin November 1, 2022. On October 26, 2022, Student filed a notice of insufficient time to comply with Education Code section 56505(e)(7) due to insufficient notice of hearing date. OAH considers Student's notice as a request 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 new facts, circumstances or law. to support reconsideration. Student's notice states that the parties did not upload evidence to the electronic evidence program because the parties finalized the settlement agreement on the same date they were required to exchange evidence pursuant to Education Code section 56505, subdivision (e)(7). As a result, Student contends that the due process hearing dates scheduled in the Order of October 26, 2022, prevents the parties from complying with Education Code section 56505, subdivision (e)(7), which requires the parties to exchange exhibits five business days before the first day of hearing. The motion for reconsideration is granted.

MOTION TO CONTINUE

Student requested for the due process hearing to be continued to provide the parties sufficient time to comply with Education Code section 56505, subdivision (e)(7).

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).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. Student established good cause to continue the matter to a date that would give the parties an opportunity to exchange evidence five business days prior to the due process hearing.

ORDER

On reconsideration, the due process hearing is scheduled on November 8, 9, and 10, 2022. The parties are ordered to meet and confer by November 3, 2022, at 5:00 PM.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings