BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

PALMDALE SCHOOL DISTRICT.

OAH CASE NUMBER 2020100496

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING REQUEST FOR CONTINUANCE

APRIL 6, 2021

On October 15, 2020, Parent on behalf of Student filed a request for due process hearing with the Office of Administrative Hearings, referred to as OAH, naming Palmdale Unified School District as respondent. Three prior continuances have been granted in this case to further the parties attempts to settle: one to allow for mediation, and two others to allow for additional time to secure assessments and to conduct a further Individualized Education Program, or IEP, team meeting to discuss the assessments. The parties' February 23, 2021 request for continuance specifically cited the parties' difficulties scheduling the IEP team meeting. Presiding Administrative Law Judge Castillo's February 24, 2021 order granted continuance, scheduling a Prehearing Conference or PHC for April 9, 2021 and hearing to commence on April 16, 2021. The

February 24, 2021 order declared that no further continuances would be granted absent compelling evidence of good cause.

On April 2, 2021, the parties filed a fourth joint request to continue this matter, on the grounds they had been unable to schedule the IEP team meeting. The requested continuance was denied. On April 5, 2021, the parties filed an "Amended Joint Motion to Continue Due Process Hearing." This motion was identical to the one denied on April 2, 2021, except that the parties specified the time of the IEP team meeting they argued would conflict with their Prehearing Conference, necessitating continuance. Accordingly, this motion is being treated as a request for reconsideration.

REQUEST FOR RECONSIDERATION GRANTED

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.)

Student has offered one new fact: that the IEP team meeting the parties scheduled was set for April 9, 2021 from 12:30 p.m. to 3:30 p.m.. No additional circumstances or law supporting the request for reconsideration were offered. Due to the proffer of an additional fact, the request for reconsideration is granted.

REQUEST FOR CONTINUANCE

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Demonstrating that the three-hour IEP team meeting scheduled overlaps with the previously scheduled Prehearing Conference for the last 30 minutes, does not establish compelling good cause for this fourth request for continuance. The parties failed to explain why the IEP team meeting was scheduled for a date and time when both parties had been notified a Prehearing Conference in this case was on calendar. More importantly, however, Student's future IEP is not at issue in this case. The desire to conduct an IEP meeting to discuss Student's future individualized educational program does not constitute the compelling grounds for an additional continuance the parties had previously been advised would be required for any further delays in this case.

ORDER

1. The parties' joint request for a fourth continuance in this matter is denied.
2. The case shall proceed on the dates currently scheduled for prehearing conference and hearing.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings