

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT on behalf of STUDENT,

vs.

BALDWIN PARK UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2009120032

BALDWIN PARK UNIFIED SCHOOL
DISTRICT,

vs.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009070280

ORDER ON REQUEST FOR
RECONSIDERATION

On January 11, 2010, District's counsel filed a motion for reconsideration of the continuance denial. District represents that Student's attorney does not oppose the 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. (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.)

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).) 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).)

DISCUSSION AND ORDER

Despite counsels recitation to the contrary, the only new facts set forth in this motion are (1) that Districts' counsel has jury service which conflicts with the prehearing conference on February 22, 2010, and, (2) that counsel is assisting in federal court of an appeal of a special education case which has been set for March 1. It should be noted that the statute does not provide an exception to the timeliness within which these cases are to be heard for vacations or holidays of any type including Christmas, spring or summer school break.

While the jury service provides good cause to reset the PHC, merely assisting with a case in federal court does not provide a basis to reconsider the order. However OAH is not unsympathic to this request and hereby orders the following:

The prehearing conference is reset to February 17, 2010 at 1:30pm.

The due process hearing is continued for one day and will begin on March 2, 2010. All other dates as agreed to by the parties at the trail setting conference which was held on the consolidated cases stand as calendared. An additional day of hearing can be assessed and addressed with the hearing ALJ at the hearing.

Accordingly, District's request for reconsideration is granted as to the prehearing conference and denied as to the continuance of the hearing except as noted.

IT IS SO ORDERED.

Dated: January 12, 2010

/s/

ANN F. MACMURRAY
Presiding Administrative Law Judge
Office of Administrative Hearings