

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ANAHEIM CITY SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2010010357

ORDER DENYING MOTION FOR
RECONSIDERATION OF ASPECTS
OF THE PREHEARING CONFERENCE
ORDER

On April 1, 2010, a telephonic prehearing conference was convened by ALJ Eileen M. Cohn. On April 5, 2010, the prehearing conference order (PHCO) was served upon the parties. Also on April 5, 2010, District notified OAH that the PHCO contained an error in the identity of one expert witness. On April 6, 2010, the parties were served with an amended PHCO.

On April 7, 2010, Student filed a motion entitled Reconsideration of Aspects of the Prehearing Conference Order, particularly parts of PHCO which limited the total number of expert and nonexpert witnesses. Student claims that she will be unduly prejudiced by limiting the number of her expert and nonexpert witnesses. Student now claims that the hearing can be completed in the previously scheduled time without limiting the number of her expert and nonexpert witnesses.

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.)

Student's motion requests the ALJ to reconsider the PHCO based upon the submission of additional information about the scope of Student's examination of witnesses, and the possible substitution of one expert witness with two experts. Here, both parties prepared prehearing conference statements prior to the PHC. The PHC was conducted with both parties present and provided both parties the opportunity to specify their witnesses and the scope of their testimony, and to discuss issues together before the ALJ. The additional information provided by Student in her motion was available at the time of the PHC.

Student raises matters that are within the province of the ALJ's discretion to manage

the hearing. Student may make an offer of proof for the need for additional expert or nonexpert witnesses to the ALJ at the hearing at a time deemed appropriate by the ALJ hearing the matter.

Student's motion for reconsideration is denied.

IT IS SO ORDERED.

Dated: April 07, 2010

/s/

EILEEN M. COHN
Administrative Law Judge
Office of Administrative Hearings