

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT, ORANGE COUNTY
HEALTH CARE AGENCY & ORANGE
COUNTY DEPARTMENT OF SOCIAL
SERVICES.

OAH CASE NO. 2010021075

ORDER DENYING MOTION FOR
RECONSIDERATION

On March 16, 2010, the undersigned administrative law judge (ALJ) issued an order dismissing Student's due process hearing request for lack of jurisdiction. Student filed a Motion for Reconsideration on March 22, 2010. Specifically, Student contends that reconsideration is warranted because a different OAH ALJ reached a different result in another matter. Student further contends reconsideration is warranted because Student interprets *Washington State Department of Social and Health Services v. Guardianship Estate of Keffeler* (2003) 537 U.S. 371 [123 S.Ct. 1017] (*Keffeler*) as standing for the proposition that Student owns the disputed SSI benefits referenced in the due process hearing request. Respondents Saddleback Valley Unified School District (District), Orange County Health Care Agency (OCHCA), and Orange County Department of Social Services (Social Services) filed oppositions to the motions for reconsideration. For the reasons set forth below, the Motion is denied.

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.)

First, the fact that a different ALJ in another case reached a different result is not a changed circumstance warranting reconsideration. There is no requirement that individual ALJ's rule in lock-step or make decisions by committee. Thus, the mere fact of inconsistent results from different ALJ's in different cases does not warrant reconsideration.

Further, Student's reliance on *Keffeler, supra*, to justify reconsideration is misplaced. As an initial matter, the case was decided in 2003. Student could have, but did not, cite the case in her opposition to the motions to dismiss. Accordingly, the case is not new law justifying reconsideration.

Moreover, Student relies on this case to rebut a sentence in the dismissal order that Student's due process hearing request would require OAH to "interpret federal social security law to determine if Student owns the SSI payments." However, the entire context of the sentence was as follows:

In short, Student is alleging that her SSI is not being properly used by Social Services and/or OCHCA and that it should go to her. To resolve the issue raised by Student would *require OAH to interpret federal social security law to determine if Student owns the SSI payments*. As noted by Social Services in its motion, SSI is a needs-based federal program. *OAH has no authority to determine if Student is personally entitled to retain SSI benefits, particularly when the benefit amount is based on need and Student's placement includes room and board.* [italics added for emphasis]

The full context of the dismissal order shows that the ALJ was referring to the same issue as that addressed by the Supreme Court in *Keffeler*, i.e., whether, under Social Security law, there are instances when public agencies as a "representative payee" may use social security benefits to pay for expenses like room and board. (see *Keffeler, supra*, 537 U.S. at pp. 376-377, 382-390.) *Keffeler* concluded that a state as a "representative payee" could reimburse itself for expenses for children in foster care and that the purpose of the Social Security benefits was not "maximizing a trust fund attributable to fortuitously overlapping state and federal grants." (*Id.* at p. 390.) Thus, rather than supporting reconsideration because Student unequivocally "owns" her SSI benefits, *Keffeler* demonstrates that the ALJ was correct that determination of whether Student's SSI was being properly used by a representative payee must be determined by application of Social Security law, an area outside of OAH jurisdiction.

ORDER

The Motion for Reconsideration is denied.

Dated: April 5, 2010

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings