

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONTECITO UNION ELEMENTARY  
SCHOOL DISTRICT AND SANTA  
BARBARA SCHOOL DISTRICTS.

OAH CASE NO. 2010110031

ORDER DENYING REQUEST FOR  
RECONSIDERATION OF VENUE

On December 22, 2010, Administrative Law Judge (ALJ) Deborah Myers-Creger issued an order granting Respondent Montecito Union Elementary School District's (MUESD) motion to change the venue of the hearing from MUESD to the offices of Santa Barbara School Districts (SBSD). At the time of MUESD's motion, SBSD was also a Respondent, and joined the motion. Student dismissed SBSD on January 27, 2011. On January 27, 2011, Student filed a request for reconsideration, incorrectly styled as a motion for change of venue. District opposed the motion and Student filed supplemental papers.

On January 31, 2011, a continued prehearing conference was held. At the PHC, the ALJ denied Student's motion for reconsideration without further argument. The PHC was recorded.

DISCUSSION

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 appears to allege that the dismissal of SBSD and the scheduling of a public meeting with MUESD board members at MUESD, constitutes new or different facts or circumstances justifying reconsideration. On the contrary, the ALJ's order did not depend on SBSD as a party, and considered all facts relating to a determination of whether the proposed location was "reasonably convenient" to parent and Student. Student's contention that a January 6, 2011, memo regarding a meeting between MUESD board members and the community raises a new fact is without merit. The ALJ was aware at the time of the order that MUESD had facilities; the evidence presented at that time by MUESD addressed

whether the facilities were appropriate for a confidential due process hearing. Furthermore, Student's request for reconsideration is untimely. Student did not notify the parties at the prehearing conference, which was held on January 24, 2011, eighteen days after the e-mail regarding the public meeting. At the PHC, the parties were asked whether pre-trial motions were contemplated and both parties stated that no further motions were contemplated. Instead, Student filed a request for reconsideration after the PHC, and five weeks after ALJ Meyers-Creger's order. For these reasons, Student's request for reconsideration is denied.

IT IS SO ORDERED.

Dated: January 31, 2011

/s/

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EILEEN M. COHN

Administrative Law Judge

Office of Administrative Hearings