

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011080588

ORDER DENYING REQUEST FOR
RECONSIDERATION

On August 22, 2011, the undersigned administrative law judge issued an order denying the parties' joint request to unexpedite this matter. On August 22, 2011, the Fresno Unified School District (District) filed a Motion to Unexpedite and Motion to Dismiss Issue Number 5.¹ The Office of Administrative Hearings (OAH) did not receive a response from Student as to District's motion to unexpedite this case. Because the August 22, 2011 order denying the request to unexpedite this case was based upon a joint request from the parties, District's present motion will be treated as a request for reconsideration of the August 22, 2011 order.

APPLICABLE LAW

OAH 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.)

DISCUSSION AND ORDER

District's motion contains a further accounting of the facts surrounding District's disciplinary action against Student, at times providing a blow-by-blow description of

¹ On August 22, 2011, Student filed a request to postpone ruling on District's motion to dismiss on the grounds that Student's counsel was unavailable to file a response until September 5, 2011. Counsel contends that District's counsel has agreed to this and OAH has not received a response from District contradicting this representation. Accordingly, a ruling on the motion to dismiss shall be issued under a separate order.

Student's alleged conduct. While it sheds further light on the facts concerning the discipline, it provides no new or different facts, circumstances, or law justifying reconsideration. The fact remains that District took action based upon Student's conduct which changed Student's placement. Student continues to challenge those disciplinary actions under the rights afforded to Student pursuant to title 20 United States Code section 1415(k).

Accordingly, District's request for reconsideration is denied and this matter shall proceed as calendared.

IT IS SO ORDERED.

Dated: August 30, 2011

/s/

BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings