

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ROCKLIN UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2012010604
ROCKLIN UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012020237 ORDER DENYING REQUEST FOR RECONSIDERATION, REQUEST FOR CONTINUANCE, AND REQUEST TO SET STATUS CONFERENCE

On February 24, 2012, the undersigned administrative law judge issued an order granting the parties' joint request to consolidate and continue the consolidated matters. At that time, the Office of Administrative Hearings (OAH) was unable to accommodate the parties' request for specific hearing dates and set the matter for hearing on May 14 – 17, 2012. On March 5, 2012, Student filed a request for reconsideration of the February 24, 2012 order, with respect to the hearing dates assigned by OAH. The Rocklin Unified School District (District) declined the opportunity to respond to Student's request. On March 8, 2012, the undersigned granted Student's request for reconsideration and set the matter for hearing on April 9 – 12, 2012. On March 13, 2012, District filed a request for reconsideration, request to continue and request for a status conference. On March 14, 2012, Student filed an opposition to District's motion.

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.)

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)(3).) 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)(3).) In ruling upon a motion for continuance, the Office of Administrative Hearings (OAH) is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

DISCUSSION

Reconsideration

Student's March 5, 2012 request for reconsideration proposed three sets of dates upon which OAH could set the matter if the request was granted. The dates of April 9 – 12, 2012, were one of the proposed set of dates. On March 6, 2012, OAH staff contacted District's counsel to inquire whether District would file a response. Counsel informed OAH staff that District would not be filing a response and, in fact, District did not file a response.

In its present request for reconsideration, District asserts that it did not file a response because it was unaware that OAH was unavailable for hearing on the dates of April 23 – 26, 2012, which were dates it had previously agreed to with Student, and were one of the set of dates proposed by Student to OAH. Therefore, District contends that its prior failure to file a response should be disregarded and it should now be allowed to address Student's March 5, 2012 request for reconsideration. District's contention is unpersuasive. First, based upon the February 23, 2012 OAH order which originally declined the parties' jointly requested dates, District was on notice that OAH may not be able to grant dates that parties request and that requested dates by parties have to be considered in light of OAH's calendar. Second, Student's March 5, 2012 request for reconsideration proposed three sets of dates. District's request for reconsideration establishes that District was not agreeable to two of the three sets of dates proposed by Student. Despite knowing that Student was proposing dates that were inconvenient for it, District declined an opportunity to file a response to Student's March 5, 2012 request for reconsideration.

Furthermore, District implies that OAH should not have considered Mother's March 5, 2012 declaration regarding her pregnancy because it was not accompanied by medical records in support of the facts alleged in the declaration. Without evidence to contradict the truth of the matter stated in Mother's sworn declaration, OAH declines District's request to delve into Mother's private medical history.

Here, District was given an opportunity to be heard as to Student's request for reconsideration, which contained dates that were inconvenient for District. District knowingly declined its opportunity to be heard. District has failed to state any new or

different facts or law that was previously unknown to it at the time of Student's request for reconsideration. Accordingly, District request for reconsideration is denied.

Continuance

District requests a continuance on the grounds that its staff is on spring break from April 2 through April 8, 2012, and that on April 9, 2012, staff is in an in-service. District asserts that a continuance is warranted because its counsel will be unable to prepare its witnesses the week prior to the hearing and that they would have to prepare the witness two weeks prior to the hearing. District has failed to establish how it will be prejudiced by having to prepare its witnesses earlier than anticipated and failed to establish that it will be unable to produce witnesses for April 9, 2012, because its staff will have returned from spring break on April 9, 2012. Accordingly, District has failed to establish good cause and its motion to continue is denied.

Status Conference

Finally, District requests that OAH set a status conference in this matter to determine agreed upon hearing dates. OAH sets status conferences under extraordinary circumstances, such as when the parties have a signed settlement agreement and are awaiting approval from a school board. This matter does not present extraordinary circumstances and District's request is denied.

ORDER

1. District's request for reconsideration is denied.
2. District's request for continuance is denied.
3. District's request for a status conference is denied.

IT IS SO ORDERED.

Dated: March 19, 2012

/s/
BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings