

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 GRANTING REQUEST FOR RECONSIDERATION, AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

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 informed OAH that it would not be filing a response to Student'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 held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

## DISCUSSION AND ORDER

In support of Student's motion, Mother has submitted a declaration, sworn under oath, stating that she is currently pregnant and based upon the terms of her prior pregnancies, her doctors expect that the delivery of Parents' third child will interfere in their ability to participate in the due process hearing currently set for May 14 – 17, 2012. Student did not previously provide this information because the dates the parties originally requested would not have been affected by Mother's pregnancy. Student has submitted different facts that, while previously known to Student, would not have been necessary to include in the parties' prior request for a continuance. Accordingly, Student's request for reconsideration of the February 24, 2012 order is granted.

With respect to the dates set by OAH in the February 24, 2012 order, Student challenges OAH's authority to set a matter, as Student puts it, "49 days past the dates requested by the parties." OAH is a quasi-judicial tribunal, holding administrative hearings throughout the state, in special education matters, under contract with the Department of Education. The time line to hold a special education hearing and render a written decision is mandated by the Individuals with Disabilities Education Act (IDEA), which allows for continuances of matters where good cause is established. Inherent within the requirement that OAH provide parties with a forum for impartial resolution of their disputes, comply with the IDEA time lines, and grant continuances where appropriate, is the right of OAH to manage its calendar.

When parties submit joint requests for continuance, OAH prefers that they also provide agreed upon dates. The purpose for this is to reduce the risk of further continuance requests if OAH were to unilaterally set dates where parties would be unavailable. The parties are not guaranteed their proposed dates. While OAH will try to accommodate parties' requested dates, that accommodation must be made in light of OAH's operational needs and in consideration of OAH's statewide calendar.

Having addressed Student's question with respect to OAH's authority to set dates that may not be those requested by the parties, here Student has established good cause to set alternate dates for hearing than those set by the February 24, 2012 order. Accordingly, all currently set dates are vacated. The consolidated matters are set as follows: prehearing conference on April 2, 2012, at 10:00 AM; and, due process hearing on April 9 – 12, 2012, starting at 1:30 PM on April 9, 2012.

IT IS SO ORDERED.

Dated: March 8, 2012

/s/

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BOB VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings