

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012070420

ORDER DENYING STUDENT'S  
REQUEST FOR RECONSIDERATION

On October 1, 2012, the OAH issued an order denying Student's request for continuance of the telephonic Prehearing Conference (PHC) scheduled for October 3, 2012 at 1:30 p.m. On October 2, 2012 Student filed a motion for reconsideration of the order denying continuance. Student's parent asserts three grounds for reconsideration, specifically that (1) a continuance is required because Student's parent and representative will be engaged concurrently in hearing in another matter at the time of the PHC in this case; (2) grounds for a continuance of the PHC exists because District's PHC statement for the PHC at issue indicates there will be a request for a continuance of the hearing in this case because of conflicting hearing schedules; and (3) District has scheduled the testimony of an expert witness at the time of the PHC and requiring the parties to use the lunch break in the hearing of the other matter will inconvenience parent.

APPLICABLE LAW

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.)

DISCUSSION AND ORDER

Student alleges no new facts, circumstances, or law in support of the request reconsideration. The record also shows that Student filed the complaint in this action on July 13, 2012. Parent concurrently filed a complaint in a separate and unrelated matter on the same date.

On August 13, 2012 the instant case was continued and a new scheduling order issued setting a PHC for October 3, 2012 at 1:30 p.m. The record also shows that the parties are

presently in hearing in the separate matter and agreed to continue the hearing to October 3, 2012. Consequently, an order issued on September 27, 2012 confirming the continuance of the separate matter for further hearing to October 3, 2012. Student's claim that District will seek a continuance of the hearing in the instant case in the upcoming PHC is not supported by the record. Moreover, there is no record that District has filed or made a motion to continue the hearing in this case. Finally, Student has presented no evidence that convening the PHC in this case during the lunch recess in the separate case will inconvenience parent or cause any disruption to taking testimony. The scheduling and management of witness testimony and breaks during hearing is within the sole discretion of the hearing ALJ, who is aware of the need to complete the PHC in this case.

Student's request for reconsideration is denied.

IT IS SO ORDERED.

Dated: October 02, 2012

/s/

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STELLA OWENS-MURRELL  
Administrative Law Judge  
Office of Administrative Hearings