

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FALLBROOK UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2011050794

ORDER DENYING DISTRICT'S
MOTION FOR RECONSIDERATION

On January 23, 2012, Student filed a motion to permit late filing of the rebuttal closing brief. On January 24, 2012, the District filed an opposition to the motion. On January 24, 2012, the Office of Administrative hearings (OAH) issued an order granting Student's motion because the District failed to demonstrate that it would suffer prejudice by permitting Student to file its closing rebuttal brief three days late.¹ On January 27, 2012, the District filed a motion for reconsideration.

In its motion for reconsideration, the District claims it was prejudiced in that Student's attorney had an opportunity to review the rebuttal brief filed by the District and to reply to it as well as District's closing brief. In reviewing Student's rebuttal brief, it is clear that Student is replying to the closing brief only, as Student does not address any of the District's contentions raised in its rebuttal.

Additionally, the District contends that Student has failed to demonstrate inadvertence or excusable neglect among other factors, which should be shown to receive leave to file the rebuttal brief late. Student's attorney demonstrated inadvertence and excusable neglect when she stated that she had erred in placing the due date on her calendar.

¹ In its order, the ALJ referred to the time period as three days late. Student filed the motion and submitted the rebuttal brief only one day late. The order refers to the time that OAH would permit the rebuttal brief to be filed.

District has failed to demonstrate prejudice. District's motion for reconsideration is DENIED.

Dated: January 27, 2012

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings