

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

FOUNTAIN VALLEY SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NOS. 2011120391 and
2011110163

ORDER DENYING REQUEST FOR
RECONSIDERATION OF DENIAL OF
PEREMPTORY CHALLENGE

On March 12, 2012, the undersigned Administrative Law Judge (ALJ) issued an order denying Student's peremptory challenge of ALJ Paul Kamoroff as the hearing judge in these consolidated matters. On March 13, 2012, Student, through his attorneys, filed with the Office of Administrative Hearings a Motion for Reconsideration of this ruling, based upon the alleged fact that Student's attorneys did not receive a message from OAH that, on March 7, 2012, OAH had assigned ALJ Kamoroff to this matter.

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

Here, Student has brought the Motion for Reconsideration in a timely matter, but does not raise facts that change the basis of the ruling denying the peremptory challenge. The OAH docket indicates that OAH informed the parties on March 7, 2012, that OAH had assigned ALJ Kamoroff as the hearing judge in this matter. The OAH docket also indicates that the assignment occurred on March 7, 2012, meaning that the OAH Calendar, available on the OAH website, informed the public that ALJ Kamoroff was the hearing judge in this case. Thereafter, ALJ Kamoroff ruled on the District's Motion to Quash in the matter. This means that the peremptory challenge of ALJ Kamoroff at the start of the due process hearing was untimely. (Cal. Code Regs., tit. 1, § 1034, subd. (e).)

Accordingly, Student's request for reconsideration is denied.

IT IS SO ORDERED.

Dated: March 14, 2012

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings