

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MANTECA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012051124

ORDER DENYING REQUEST FOR  
RECONSIDERATION

On May 23, 2012, Student filed a Due Process Hearing Request (complaint) naming District. On June 7, 2012, District filed a Notice of Insufficiency. On June 11, 2012, Office of Administrative Hearings (OAH) issued an Order Partially Granting Notice of Insufficiency. The Order held that Issues one through fourteen, and sixteen of Student's complaint were sufficient, and that Issues fifteen and seventeen of Student's complaint were insufficient. The Order permitted Student to file an amended complaint not later than 14 days from the date of the Order. The Order further held that, if Student failed to file a timely amended complaint, the hearing would proceed only on Issues one through fourteen, and sixteen in Student's complaint.

On June 25, 2012, after the date for timely filing of an amended complaint had passed, Student filed a "Joint Request to Defer Date for Filing Amended Complaint," signed also by District's counsel, in which the parties stated that they had mutually "agreed to defer to July 10 the due date for amendment of petitioner's complaint." The stated reason for the stipulation was to avoid unnecessary attorney fees pending settlement discussions.

The parties' stipulation to modify OAH's Order is treated as a Motion for Reconsideration, which, as discussed below, is denied.

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.)

## DISCUSSION AND ORDER

The parties seek modification of the prior Order's due date to amend the complaint following District's filing of an NOI. The parties allege no new facts, circumstances, or law in support of the request for reconsideration, particularly when the request was not filed until after the due date for amendment of the complaint set forth in the NOI Order. Accordingly, the request for reconsideration is denied.

As previously ordered, therefore, since Student failed to file a timely amended complaint, the hearing shall proceed only on Issues one through fourteen, and sixteen in Student's complaint. Although OAH is declining to reconsider the NOI Order, nothing in this Order prevents District from agreeing in writing to the filing of an amended complaint, when and if Student is prepared to file one, using the procedure set forth in Education Code section 56502, subdivision (e).

IT IS SO ORDERED.

Dated: June 28, 2012

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings