

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2012100025

ORDER DENYING REQUEST FOR
RECONSIDERATION

On February 1, 2013, the undersigned Administrative Law Judge (ALJ) issued an order granting the Acalanes Union High School District's (District's) peremptory challenge of ALJ Rebecca Freie. Shortly after the issuance of that order, on February 1, 2013, the undersigned reconsidered his order, *sua sponte*, and vacated the order granting the peremptory challenge, and issued a new order denying the peremptory challenge. On February 1, 2013, District filed a motion to reconsider the denial of its peremptory challenge. On February 4, 2013, District filed sworn declarations of Elizabeth Rho-Ng, attorney for District, and Cynthia Gibbons, legal secretary to Ms. Rho-Ng, in support of its request for reconsideration. The Office of Administrative Hearings (OAH) did not receive a response from Student.

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

District alleges no new facts, circumstances, or law in support of the request for reconsideration. The request for reconsideration and declarations provide further details as

to the communications between OAH, Ms. Gibbons and Ms. Rho-Ng, but do not provide new material facts, not previously provided to OAH.¹

District provides no new legal authority. Furthermore, District provides no authority to support the undersigned's right to re-examine applicable law and reconsider a prior ruling *sua sponte*. Accordingly, District's request for reconsideration is denied.

IT IS SO ORDERED.

Dated: February 4, 2013

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings

¹ District alleges that OAH has refused to acknowledge that it gave notice to the parties of the change in assigned ALJ the morning of February 1, 2013. This is a new allegation, but is unsupported by the record. The February 1, 2013 order denying District's peremptory challenge states that District was notified approximately at 9:20 that the due process hearing had been reassigned to ALJ Freie.