

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

TEMPLETON UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014040565

ORDER DENYING REQUEST FOR  
RECONSIDERATION

On April 16, 2014, the parties filed a joint request to continue the dates in this matter. The parties requested that mediation be set on May 7, 2014, the prehearing conference (PHC) be set on May 16, 2014, and the due process hearing be set on May 27 – 28, 2014. On April 17, 2014, the undersigned administrative law judge issued an order granting the requested mediation date, but setting the PHC for July 28, 2014, and the due process hearing for August 5, 2014, and continuing day to day. On April 23, 2014, the parties resubmitted their original continuance request with a motion for reconsideration of the April 17, 2014 order.

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

The parties allege no new facts or law in support of the request reconsideration. The main contention of the parties appears to be that they are entitled to the dates they selected in agreement with one another, irrespective of OAH's operational needs. This does establish a showing sufficient for reconsideration of the April 17, 2014 order.

The parties further contend that the August 5, 2014, due process hearing date is infeasible because the Templeton Unified School District (Templeton) will be on summer recess; Templeton has an employee who is taking a leave of absence and may not be available to testify; and Templeton desired a resolution as to its March 7, 2014 offer of placement and services to Student prior to the start of the 2013-2014 school year. While these contentions do not provide grounds for reconsideration, the contentions will be addressed.

Templeton filed this action on April 11, 2014, over a month after the March 7, 2014 placement that it seeks to implement was offered to Student. OAH timely set this matter for mediation and hearing. The parties requested that those dates be continued. While OAH will try to accommodate dates jointly requested by parties, any resetting of a matter is subject to operational needs and here, while OAH could accommodate the requested mediation date, it could not accommodate the requested due process hearing dates.

While Templeton asserts that it needs a resolution to the dispute prior to the start of the 2013-2014 school year, it at the same time asserts that if OAH does not give it the dates it requested, Templeton will not be available for hearing until August 20, 2014, when the new school year begins. Templeton's claim for urgency is undercut by its position that if it does not get the dates it is requesting it won't be available until the new school year.

Templeton asserts that the August 5, 2014 hearing date is not feasible because it is on summer recess. The Individuals with Disabilities Education Act does not suspend due process hearings during school recesses. Accordingly, Templeton's position is not persuasive. Finally, Templeton asserts that a potential witness may not be available to testify. The vague allegation that a witness "may" not be available is equally unpersuasive.

The request for reconsideration is denied. All dates are confirmed.

IT IS SO ORDERED.

DATE: April 25, 2014

/s/

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