

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

BUCKEYE SCHOOL DISTRICT.

OAH CASE NO. 2009040469

ORDER GRANTING JOINT REQUEST  
FOR RECONSIDERATION

On April 8, 2009, Student filed a due process complaint alleging child find issues, as well as placement and services issues as set forth in an IEP dated February 13, 2009. On June 15-18, 2009, Administrative Law Judge Carla L. Garrett (ALJ Garrett) heard the matter and issued a written Decision on July 28, 2009. In the Decision, ALJ Garrett noted that the parties had not amended the complaint or filed a stipulation in this matter to include a determination of whether the April 14, 2009 Individualized Education Plan (IEP) had offered Student a free and appropriate public education (FAPE). As such, ALJ Garrett concluded that the issue was not properly before her. On August 13, 2009, the parties filed a joint request for reconsideration stating that on or about June 5, 2009, the parties had, in fact, entered into a stipulation agreeing that the April 14, 2009 IEP would be an issue in the case. The parties discussed the stipulation at the prehearing conference before ALJ Trevor Skarda on June 8, 2009, however, the order following the prehearing conference did not reference the stipulation.

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.)

Here, unbeknownst to ALJ Garrett, the parties had agreed to include the April 14, 2009 IEP as an issue in this matter. As such, ALJ Garrett will issue an amended Decision to include a discussion addressing whether District offered Student a FAPE in the April 14, 2009 IEP.

Accordingly, the parties' joint request for reconsideration is granted.

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IT IS SO ORDERED.

Dated: August 26, 2009

/s/

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CARLA L. GARRETT  
Administrative Law Judge  
Office of Administrative Hearings