

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FOLSOM CORDOVA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010100403

ORDER DENYING STUDENT'S  
MOTION TO RESET HEARING  
DATES TO PREVIOUSLY  
SCHEDULED DATES; ORDER  
DENYING STUDENT'S REQUEST  
FOR RECONSIDERATION OF  
RULING ON FILING DATE OF  
AMENDED COIMPLAINT

On October 7, 2010, Student filed a Due Process hearing Request (Complaint), naming Folsom Cordova Unified School District (District) as respondent. On October 18, 2010, Student filed a Request to Amend the Due Process Hearing Request (amended complaint). On October 20, 2010, District filed a statement of non-opposition that included a request that if the Office of Administrative Hearings (OAH) granted Student's request to amend his complaint, that OAH provide written confirmation that all currently scheduled dates would be vacated, and that new timelines would commence pursuant to the statutory authority set forth in the IDEA.

On the morning of October 25, 2010, OAH issued an order granting Student's motion to amend his complaint, which included a ruling stating that Student's amended complaint was deemed filed as of the date of the order (October 25, 2010), and that all applicable timelines would be reset as of October 25, 2010. Later that morning, Student filed a "Motion in Opposition of Vacating Scheduling Order and/or Dismiss Petitioner's Motion to Amend Complaint," which OAH interpreted as a motion to reset hearing dates to the dates previously scheduled in relation to his initial complaint. Student contended that since a resolution session was held on October 20, 2010, there was no need to reset the timelines.

On October 28, 2010, District filed an opposition to Student's motion to reset hearing dates to pre-amended hearing dates, contending that federal and state statutes provided for an automatic resetting of timelines upon the filing of an amended complaint. In addition, District argued that the resolution session held on October 20, 2010 was in reference to Student's initial complaint, which was five pages long, and not to his amended complaint, which was 41 pages long. District further argued that it would be prejudiced if it did not receive all of its statutorily permitted time to prepare a response to Student's amended complaint, participate in a resolution session regarding the amended complaint, attempt to settle in mediation, and prepare for hearing.

On November 1, 2010, Student filed a reply to District's opposition, arguing District only wanted the new timeline so that District employees could go on scheduled vacations. In addition, on November 3, 2010, Student filed a request for reconsideration of the ruling to reset the applicable timelines to commence on October 25, 2010, arguing that the resetting of the applicable statutory guidelines was "arbitrary" and "not necessary," given the fact that the parties had previously met for a resolution session on October 20, 2010. On November 4, 2010, District filed a response to Student's reply regarding Student's motion to reset hearing dates to the initially scheduled dates, as well as an opposition to Student's request for reconsideration. District's filing set forth the same arguments as those outlined in its previous opposition to Student's motion to reset hearing dates. As discussed in more detail below, District is correct.

## APPLICABLE LAW AND DISCUSSION

### *Motion to Reset Hearing Dates to Previously Scheduled Dates*

As set forth in the October 25, 2010 order, the filing of an amended complaint resets all applicable timelines, pursuant to Title 20 of the United States Code, sections 1415(c)(2)(E)(II)(ii), and 1415(f)(1)(B). In addition, California statutory authority provides for the resetting of timelines upon the filing of an amended complaint. (Ed. Code, § 56502(e).) Within 15 days of receiving notice of the due process complaint filing the District must convene a resolution meeting. 34 C.F.R. § 300.510(a). The purpose of the meeting is to discuss the complaint and the surrounding facts so that the District has an opportunity to resolve the dispute prior to hearing. 34 C.F.R. § 300.510(a)(2). The resolution meeting need not be held if the parents and the District agree in writing to waive the meeting. 34 C.F.R. § 300.510(a)(3).

No written stipulation exists between the parties that expressly waives the resolution meeting which could advance the hearing dates to earlier dates although not to the original hearing dates. The fact that a resolution session was held prior to the official filing of the amended complaint, or that District employees intend to use the new timeline to take pre-scheduled vacations, is irrelevant. As such, Student's motion to reset the hearing dates to ones scheduled in his initial complaint must be denied.

### *Request for Reconsideration*

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, Student merely argues that OAH arbitrarily reset the applicable timelines, but presented no new or different facts, circumstances, or law justifying reconsideration. As such, Student's request for reconsideration must be denied.

ORDER

1. Student's motion to reset the hearing dates to those scheduled prior to the amending of his complaint is denied. All dates set forth in the October 25, 2010 "Scheduling Order and Notice of Due Process Hearing and Mediation (Amended Dates)" shall remain on calendar.

2. Student's request for reconsideration is denied.

IT IS SO ORDERED.

Dated: November 09, 2010

/s/

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CARLA L. GARRETT  
Administrative Law Judge  
Office of Administrative Hearings