

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

THE SCHOOL OF ARTS AND
ENTERPRISE CHARTER SCHOOL.

OAH Case No. 2014040480

ORDER DENYING REQUEST FOR
RECONSIDERATION

On April 7, 2014, Student, through his legal counsel, filed a Due Process Hearing Request¹ (complaint) with the Office of Administrative Hearings naming the School of Arts and Enterprise Charter School (Charter School). On April 23, 2014, Charter School, through its legal counsel, filed a Notice of Insufficiency (NOI) as to Student's complaint. On May 6, 2014, the undersigned administrative law judge issued an order finding that Charter School's NOI was not timely filed. On May 9, 2014, Charter School filed a request for reconsideration, asserting that it received the complaint after 5:00 p.m. on April 7, 2014, and thus it received Student's complaint on April 8, 2014, which would make its NOI timely filed within 15 days of it receiving Student's complaint.² Student did not submit a response.

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.)

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 United States Code section 1415(b)(7)(A).

² 20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1); and Cal. Code Regs., tit. 1, § 1006, subd. (h).

DISCUSSION AND ORDER

Charter School alleges in its request for reconsideration and attached declaration of Germaine Nesbitt, Charter School Director, that Charter School received Student's complaint at 5:51 p.m. on April 7, 2014, which is after business hours. However, Charter School fails to note that the fax time stamp on the complaint is 17:51 Greenwich Mean Time, which is also time stamped on the complaint that OAH received, which is 9:51 a.m., Pacific Daylight Time. Therefore, OAH and Charter School both received Student's complaint around the same time on the morning of April 7, 2014, and thus Charter School's NOI was not timely filed, as it was due on April 22, 2014. Accordingly, Charter School's request for reconsideration is denied.

IT IS SO ORDERED.

DATE: May 12, 2014

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings