

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENT ON BEHALF OF STUDENT,  v.  SAN MATEO-FOSTER CITY SCHOOL DISTRICT,	OAH Case No. 2015040885
SAN MATEO-FOSTER CITY SCHOOL DISTRICT,  v.  PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015030258  AMENDED ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING REQUEST TO UNCONSOLIDATE

On May 13, 2015, the undersigned administrative law judge issued an order granting San Mateo-Foster City's request to consolidate OAH 2015040885 [Student's Case] with OAH 2015030258 [San Mateo-Foster City's Case]. On May 13, 2015, after that order had been issued, the Office of Administrative Hearings received an opposition to the motion from Student. On May 15, 2015, OAH received an additional letter from Student opposing consolidation. Those letters are considered a request for reconsideration of the order granting consolidation of the aforementioned cases.

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

Student essentially argues that consolidation is not appropriate because consolidating the cases would unfairly shift the burden of proof from San Mateo-Foster City to Student in the due process hearing. This argument is considered a new legal basis upon which reconsideration is warranted. Student's interpretation of the consolidations impact, however, is incorrect. At the hearing, the party filing the complaint has the burden of persuasion by a preponderance of the evidence. (*Schaffer v. Weast* (2005) 546 U.S. 49, 56-62 [126 S.Ct. 528, 163 L.Ed.2d 387]; see 20 U.S.C. § 1415(i)(2)(C)(iii) [standard of review for IDEA administrative hearing decision is preponderance of the evidence].) Therefore, San Mateo-Foster City bears the burden of proof as to the issues raised in its complaint and Student bears the burden of proof as to the issues raised in his complaint. Consolidating the cases does not impact or shift the burden of proof. The request to unconsolidate the matters is denied. The cases will remain consolidated.

## ORDER

1. The motion for reconsideration is granted.
2. The request to unconsolidate OAH 2015040885 and OAH Case No. 2015030258 is denied.

IT IS SO ORDERED.

DATE: May 20, 2015

/s/

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JOY REDMON  
Administrative Law Judge  
Office of Administrative Hearings