BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PANAMA-BUENA VISTA UNION SCHOOL DISTRICT.	OAH Case No. 2014100290 ORDER DENYING REQUEST FOR RECONSIDERATION OF APRIL 6, 2015 ORDER DENYING PEREMPTORY CHALLENGE AND CHALLENGE FOR CAUSE

On April 6, 2015, the Office of Administrative Hearings issued an order (Order) following a prehearing conference on April 3, 2015, held by the undersigned administrative law judge. The Order included an order denying Student's oral peremptory challenge and oral challenge for cause made during the prehearing conference. On April 10, 2015, Student's counsel timely filed a motion for reconsideration of the order denying the peremptory challenge and challenge for cause. The Motion included a declaration under penalty of perjury from Student's attorney. The hearing in this matter, which began on January 6, 2015, on the expedited issues, is scheduled to recommence as to non-expedited issues on April 15, 2015. Although District did not file an opposition before this Order was drafted, an opposition is not necessary because, as discussed below, the motion is denied.

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.)

DISCUSSION AND ORDER

Student's counsel asserts and requests that the presiding administrative law judge should reconsider the Order denying her challenges for cause based on alleged bias or prejudice by the ALJ against Student and his attorney. The request is denied.

Student's counsel has offered no new facts or law that justifies reconsideration of the order denying Student's peremptory challenge, because the matter has already commenced hearing and the peremptory challenge was therefore untimely, as noted in the Order.

Similarly, Student's counsel offered no new facts or law that arose at any time during or after the January 6, 2015 hearing commenced that would justify reconsideration of the undersigned's denial of her challenge for cause. Instead, Student's counsel has asserted allegations of fact dating back to at least the start of the hearing on the expedited issues that were or should have been known to her when she made her oral challenge for cause at the April 3, 2015 prehearing conference. More specifically, the alleged new facts asserted in the Motion could have been raised by Student's counsel as grounds for a challenge for cause at the time the alleged facts arose, in a written challenge for cause filed with OAH prior to the prehearing conference on the non-expedited issues, or at the time the challenges were originally orally asserted at the April 6, 2015 prehearing conference.

Student's counsel offered no explanation in her declaration to this Motion as to why those facts were not offered prior to when the undersigned denied Student's challenge for cause. As a result, Student has not established a valid basis for reconsideration and Student's request for reconsideration is denied.

IT IS SO ORDERED.

DATE: April 13, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings