BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT	OAH CASE NOS. 2012120545 & 2012120173 ORDER GRANTING REQUEST FOR RECONSIDERATION

On April 24, 2013, the undersigned administrative law judge (ALJ) issued an Order Following Prehearing Conference. During the telephonic prehearing conference (PHC) that led to the issuance of that order, there was a discussion regarding the upcoming hearing.

Although an attorney filed the due process request on behalf of Student in this case, an educational advocate appeared at the PHC on behalf of Student. During the PHC, ALJ Ruff expressed an expectation that, if Student was represented by an attorney, that attorney should be present at the administrative hearing to try the case on his client's behalf. The ALJ's comments in this regard were not included in the written PHC order.

On April 29, 2013, Student filed a request for reconsideration of the PHC order, asking that Student's educational advocate be permitted to try part or all of the case at the due process hearing, whether or not the attorney is present. Student's moving papers explained that the attorney recently underwent surgery and may not be present during part or all of the hearing. Student also explained that Student's parents prefer to have an advocate prosecute their case, rather than their attorney, to save money on attorney's fees.

This case has recently been reassigned to ALJ Owens-Murrell for hearing. ALJ Owens-Murrell should make the orders regarding the conduct of the hearing over which she will preside. Therefore, to the extent that ALJ Ruff made any orders during the PHC which require Student's attorney to attend the hearing and prosecute the case on his client's behalf, Student's motion for reconsideration is granted and those orders by ALJ Ruff are rescinded.

Nothing in this Reconsideration Order is intended to limit ALJ Owens-Murrell's discretion to make any orders regarding the conduct of the hearing or the representation of Student at the hearing.

If Student has any additional concerns regarding the PHC order or matters discussed during the telephonic PHC, Student should raise those issues with ALJ Owens-Murrell on the first day of hearing.

IT IS SO ORDERED.

Dated: May 3, 2013

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings