BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LAFAYETTE SCHOOL DISTRICT.	OAH Case No. 2017031065 ORDER DENYING REQUEST FOR RECONSIDERATION

On May 25, 2017, the undersigned administrative law judge issued an order bifurcating this matter, and that evidence be presented on the issue of residency first, and a decision rendered in that regard, before the remaining issues were heard and decided. On June 12, 2017, Student filed a motion for reconsideration of the order bifurcating the case. On June 14, 2017, Lafayette School District filed an opposition to the motion for reconsideration.

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

Lafayette filed its motion for bifurcation on May 2, 2017, asking that the issue of residency be litigated and decided before other issues were litigated. Based on the information in Student's request for due process, and Lafayette's motion to bifurcate, there appeared to be no dispute that Parents had joint physical and legal custody of their two children, and during the initial period encompassed by the request for due process, both parents lived within Lafayette's boundaries. Student and his sibling had been privately placed by Parents in a nonpublic school in Palo Alto in June 2015. Father rented a home in a school district close to the location of the nonpublic school in January 2016, because it took

two to three hours each school day to transport the children to and from the nonpublic school. Student did not name that school district where Father resides as a party in this case.

Lafayette filed its motion for bifurcation because one of the issues that would need to be determined by the ALJ hearing the case was whether Lafayette was solely responsible for the cost of nonpublic school placement both prospectively and retroactively, or whether the school district where father resided, also was responsible and to what degree. The undersigned ALJ granted Lafayette's motion and ordered that the issue of residency be litigated first, because a ruling in this regard might serve to limit the evidence presented in regards to the remaining issues.

Student has now asked that OAH reconsider its order bifurcating the case on the grounds that Mother moved from the boundaries of Lafayette in early May 2017. Therefore, Student claims, Lafayette no longer has prospective responsibility for funding Student's private placement.

OAH did not address Lafayette's motion to bifurcate until May 25, 2017. Student had three weeks to respond with the information that Mother had moved from Lafayette in early May 2017. Based on the declarations of the parties attorneys filed in support of and opposition of the motion for reconsideration, both parties' attorneys were aware of this move while the motion to bifurcate was pending. Mother's move, which Student claims is the reason why OAH should reconsider its previous ruling is not a new fact; it existed at the time Student could have filed on opposition to the motion to bifurcate. Accordingly, Student's request for reconsideration is denied.

ORDER

Student's motion for reconsideration is denied.

IT IS SO ORDERED.

DATE: June 19, 2017

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings