BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PALOS VERDES PENINSULA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013021001 ORDER GRANTING REQUEST FOR RECONSIDERATION

On March 18, 2013, the undersigned administrative law judge issued an order finding that Palos Verdes Peninsula Unified School District's (District's) due process complaint (complaint) was sufficient because Student's notice of insufficiency was not timely made. On March 20, 2013, Student filed a 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 AND ORDER

Student alleges new facts in support of the request reconsideration, as follows: There was no agreement between Student or his attorney and the District authorizing the District to serve documents by facsimile at the time the complaint was served.[1] The motion is accompanied by sworn declarations by the parent of Student and by Steven Wyner, Esq. Both declarations note that neither Student nor his attorney agreed to accept service of a due process complaint via facsimile. A copy of the due process complaint was received via US Mail on March 4, 2013.

[1] Student's attorney did not plead any facts regarding acceptance of service via facsimile in the initial NOI.

The motion for reconsideration is timely as it was received within two days of the issuance of the initial order.

On reconsideration, the time for filing a notice of insufficiency (NOI) in this case runs from the time the complaint was received via us mail on March 4, 2013, because there was no authorization to serve the due process complaint via facsimile.

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings (OAH) and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements.[2]

The NOI was received on March 15, 2013, therefore, the initial notice of insufficiency was timely and a separate order will be issued regarding the sufficiency of the due process complaint.

Accordingly, Student's request for reconsideration is Granted.

IT IS SO ORDERED.

Dated: March 21, 2013

/s/
MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings

[2] 20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).