BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT, LOS ALTOS SCHOOL DISTRICT.	OAH Case No. 2018081179 ORDER GRANTING RECONSIDERATION; RESCINDING LOS ALTOS SCHOOL DISTRICT'S DISMISSAL; DENYING REQUEST FOR STATUS CONFERENCE AND SETTING HEARING DATES

On August 30, 2018, Student filed a due process complaint naming Mountain View-Los Altos Union High School District (Mountain View) and Los Altos School District (Los Altos) as respondents. On November 1, 2018, the three parties participated in mediation. The mediation and its contents are confidential; however, the mediation results are reported to OAH for case tracking purposes. It was reported that the parties reached a final agreement and that the agreement was contingent on school board approval by Mountain View but not by Los Altos. Accordingly, on November 7, 2018, Los Altos was dismissed as a party. On November 8, 2018, an order was issued vacating the due process hearing dates as to Mountain View and setting the matter for a status conference following the anticipated date its school board was set to meet regarding the settlement.

On November 8, 2018, Student submitted a motion for reconsideration of Los Altos' November 7, 2018, dismissal arguing that the entire agreement was contingent on Mountain View's board approval. Student asserted that if Mountain View's school board does not approve the agreement, then the case will proceed against both respondents. Neither Mountain View nor Los Altos responded 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

Reconsideration

Student asserted the new fact that the settlement as to Los Altos is contingent on adoption by Mountain View's school board. This new fact is sufficient to justify reconsideration of the November 7, 2018, order dismissing Los Altos. Accordingly, the motion for reconsideration is GRANTED.

Los Altos' Dismissal

A status conference is only set when parties have entered into a final settlement agreement that is contingent on adoption by the settling party's school board. A status conference will not be set when an agreement is contingent upon the action of a third party. In that case, the matter is not deemed settled between those two parties.

Based on Student's motion, this matter is not settled as to Los Altos as its school board has no action to take to ratify or execute the settlement agreement. Rather, the agreement between Student and Los Altos is contingent on the action of a third party, Mountain View's school board. Therefore, the request for reconsideration of Los Alto's dismissal is GRANTED and Los Altos' dismissal is RESCINDED.

Status Conference Denial

As noted above, a status conference is only set when the parties have entered a final agreement contingent on board approval. As to Student and Los Altos that is not the case. Like any agreement contingent on third party approval, whether it be a non-public agency, a residential treatment center, or another school board, the matter is not considered final as to the Student and that respondent until the third-party action is taken. Accordingly, the request to schedule a status conference between Student and Los Altos is DENIED. The matter is continued and set as follows:

Prehearing Conference:	Friday, November 30, 2018, at 1 PM
Due Process Hearing:	December 11, 2018, at 9:30 AM, December 12-13, 2018, at 9 AM, and continuing day-to-day thereafter at the discretion of the ALJ.

ORDER

1. Motion for Reconsideration is GRANTED.

2. Order dismissing Los Altos School District is RESCINDED.

3. Request to schedule a status conference between Student and Los Altos is DENIED.

4. As to Student and Los Altos, the matter is continued and calendared as set forth above.

IT IS SO ORDERED.

DATE: November 16, 2018

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Joy Redmon
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JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings