

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

STUDENT,

v.

LINCOLN UNIFIED SCHOOL DISTRICT,

OAH Case No. 2014070965

STUDENT,

v.

LINCOLN UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014060819

ORDER DENYING REQUEST FOR
RECONSIDERATION AND DENYING
REQUEST TO EXPEDITE HEARING

On August 1, 2014, the undersigned administrative law judge issued an order consolidating two cases filed by Student against the Lincoln Unified School District (Lincoln). On August 1, 2014, Student filed a Motion for Reconsideration requesting the cases be severed, or in the alternative, that an expedited hearing be set.

APPLICABLE LAW

Reconsideration

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.)

Expedited Hearing

When a school district changes the placement of a special education student for specific conduct that violates the student code of conduct, the student is entitled to certain procedural protections. A parent who disagrees with any decision regarding a determination

that the alleged conduct is not a manifestation of the student's disability may request a hearing. (20 U.S.C. § 1415(k)(3)(A).) The hearing held pursuant to this section is expedited and will be conducted within 20 school days of the hearing request. (20 U.S.C. § 1415(k)(4)(B).) Special education law does not provide for any other type of expedited hearing.

DISCUSSION

Request for Reconsideration

Student did not present new or different facts justifying reconsideration of the original order consolidating the matters. In his request, Student acknowledges that the same witnesses will be called in each case. Student asserts that the matters are, "not the same scope," because one case deals with the extended school year and the other case only the school year. The facts asserted in both complaints, however, allege a denial of a free appropriate public education during overlapping time periods including extended school years in both matters. The request for reconsideration is denied.

Request for Expedited Hearing

Student did not raise any disciplinary issues in either case meeting the legal criteria for an expedited hearing. Student asserts that the hearing should be expedited or the matter proceed to hearing on the dates set in the original case. The request for an expedited hearing is denied. Further, as noted in the original consolidation order, the time for the resolution period in the second case has not yet run. That fact was taken into consideration when calendaring the consolidated matter. Accordingly, the dates set will stand.

ORDER

1. Student's Motion for Reconsideration is denied.
2. Student's Request for Expedited Hearing is denied.
3. All dates set in the consolidated matter are to remain on calendar.

DATE: August 4, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings