

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

BUENA PARK SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015010467

ORDER DENYING REQUEST FOR  
RECONSIDERATION

On July 1, 2015, Parents wrote a letter to the Office of Administrative Hearings contending that Parents did not understand “what next” and when closing arguments were due; copies of requested recordings were not timely received; Parents did not know “what evidence and exhibits” were admitted; the ALJ did not allow Parents time equal to the time taken by District to question a witness, interrupted Parent’s questioning and did not let the witness answer Parents’ questions; objected to a Prehearing Conference Order dated April 24, 2015, and there was an error in the translation of an Order written in English to Romanian. Parents asked OAH to have a new ALJ review the case and to “open the Due Process for 2-3 hours again, so we can fix with evidence/exhibits.”

In response to Parents’ letter concerning the due date for closing arguments and receipt of requested recordings, OAH granted the parties additional time to file written closing arguments by separate Order dated July 2, 2015.

In response to Parents’ challenge to the assigned ALJ, OAH denied Parents’ request for a new ALJ by separate Order dated July 2, 2015.

All of the remaining contentions raised in Parents’ July 1, 2015 letter have been previously ruled upon in written orders or on the record during the hearing. Accordingly, Parent’s July 1, 2015 letter is understood to be the equivalent of a motion for reconsideration of evidentiary rulings made during the hearing on the record and other orders including the witnesses and exhibits covered by the April 24, 2015 Prehearing Conference Order, and to limit the ALJ’s discretion to determine the order of witnesses based upon an alleged error in the Romanian translation of an order issued in English; and for clarification of which exhibits were admitted.

APPLICABLE LAW

OAH 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.)

Matters regarding the conduct of the hearing, questioning of witnesses, time allotted, and evidentiary rulings, are within the ALJ's discretion. (Gov. Code, §§ 11512, subd. (b) & 11513.) Under Education Code section 56505.1 the ALJ has the authority to question witnesses. (Ed. Code, § 56505.1, subd. (a).) The ALJ may bar a party from introducing any documents or testimony not disclosed to the ALJ or the other party at least five business days before the hearing. (Ed. Code, § 56505.1, subd. (f).) The ALJ may set reasonable limits on the length of the hearing after considering the issues to be heard, the complexity of the facts, the abilities of the parties to present their respective cases, and the parties' estimate of the time needed to present their cases. (Ed. Code, § 56505.1, subd. (f).)

## DISCUSSION AND ORDER

Parents do not allege any new facts, circumstances, or law that would merit reconsideration or to re-open the matter to fix exhibits. The record reflects that all evidentiary objections, questions and concerns as to the admission of evidence were addressed on the record and explained by the ALJ on the record.

The record also reflects the parties and the ALJ twice reviewed which of District's exhibits and which of Student's exhibits were admitted. The record reflects that District exhibit 1 (pages 1 thorough 11 and 13 only), and District exhibits; 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 15, 17, 18, 19, 20, 21, 22, 26, 28, 29, 30, 34, 35, 36, 37, 39, 40, 41, 42, 44, 45, 46 and 47 were admitted. The record reflects that Student's exhibit numbers 1, 4, 5, 7, 10 (pages 4, 5, and 6 only), 11 and 12 were admitted.

The record reflects that matters concerning the procurement of Parents' requested District witnesses, the order of witnesses, and the length of time for witness testimony were determined following consideration of the complexity of the facts, the necessity of having exhibits translated, the availability of a Romanian language interpreter during the proceedings, the availability of Parents, and the parties' own estimates of the time needed for them to present their case.

The record further shows that a telephonic prehearing conference was held on March 9, 2015. Student was, at that time, represented by counsel. Student's counsel timely filed a witness list and an exhibit list. A second telephonic prehearing conference was held on April 24, 2015. Student's mother appeared at the April 24, 2015 prehearing conference, unrepresented by counsel. A Romanian language interpreter was provided and the prehearing conference was recorded. The prehearing conference process was explained to Parent. Parent stated she was prepared to proceed, which she did. There are no grounds to set aside the April 24, 2015 Prehearing Conference Order after the due process hearing has concluded.

Lastly, the record reflects that after all witnesses completed their testimony and all exhibits had been admitted, Parents asked that a District witness be recalled based upon their reading of a Romanian translation of an order written in English. The ALJ reviewed the original written order and determined that the order did not require the ALJ to recall the witness. The ALJ then denied the request to recall the witness for the reasons set forth on the record.

For the reasons set forth above, Parents' request for reconsideration and to re-open the hearing is denied.

IT IS SO ORDERED.

DATE: July 10, 2015

/s/

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MARIAN H. TULLY  
Administrative Law Judge  
Office of Administrative Hearings