

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2016090258

v.

ANAHEIM CITY SCHOOL DISTRICT,

ANAHEIM CITY SCHOOL DISTRICT,

OAH Case No. 2016050770

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING REQUEST FOR
RECONSIDERATION AND
REAFFIRMING DENIAL OF
PEREMPTORY

On February 3, 2017, the undersigned administrative law judge issued an order denying a peremptory challenge on the grounds that it had not been properly and timely filed.

On February 3, 2017, District filed a letter that is treated as a motion for reconsideration, attaching documents that purport to be fax confirmations that the peremptory was properly and timely filed.

Reconsideration is granted to review the purported fax confirmation sheets. Upon reconsideration, the peremptory is again denied as it was not properly and timely filed.

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

On reconsideration, the documents submitted by District, in pertinent part, contain two "Transmission Reports" that purport to show that the four-page peremptory challenge was faxed at 1:23:32 PM (to Student's fax number 714-698-0243) and at 1:48:19 PM to "faxination," (which is presumed refer to the OAH faxination number 916-376-6319) on January 24, 2017.

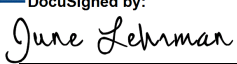
No such filings at or around these times appeared, in OAH's internal faxination system.

On the other hand, OAH's internal faxination system did reveal that the document was improperly filed as the last four pages of a 12-page fax attached to a different filing (District's Opposition to a Motion to Dismiss in OAH Case No. 2017010004).

No confirmation can be located for the purported fax purportedly filed at or around 1:48:19 PM on January 24, 2017. Therefore on reconsideration, the motion is again denied.

IT IS SO ORDERED.

DATE: February 3, 2017

DocuSigned by:

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JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings