BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. YUBA CITY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017051407 ORDER GRANTING REQUEST FOR RECONSIDERATION AND MODIFYING ORDER REGARDING PROCEDURAL MATTER

There is an ongoing due process hearing in this matter. On January 30, 2018, the undersigned ALJ issued an order that set a further evidentiary proceeding for February 12, 2018, concerning a matter discussed in an in camera session on January 25, 2018. On February 8, 2018, Yuba City filed a motion for reconsideration of the January 30, 2018 order.

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.)

DISCUSSION

Reconsideration

The order of January 30, 2018, set aside the first 60 minutes of hearing time on February 12, 2018, to permit each party 30 minutes to present evidence concerning the subject of the in camera hearing of January 25, 2018. Yuba City, in its February 8, 2018 request for reconsideration, asserts that one of the witnesses it wishes to testify concerning the subject of the in camera hearing on January 25, 2018, is unavailable on that date, and asks that additional time be set aside on February 13, 2018, for the testimony of that witness.

When the undersigned ALJ issued the order of January 30, 2018, she did not know who the parties intended to call as witnesses in reference to the procedural matter. Yuba City now wishes to have a witness who is unavailable on February 12, 2018, to testify concerning the procedural matter. This is a new fact that was not considered when the January 30, 2018 order, was issued. Accordingly, Yuba City's motion for reconsideration of the January 30, 2018 order is granted.

Hearing Concerning Procedural Matter

Upon reconsideration, the order of January 30, 2018, shall be amended to reflect the new information provided in Yuba City's motion for reconsideration. The 60-minute hearing concerning the procedural matter shall commence on February 12, 2018, with each side given 30 minutes total to question the witnesses called regarding the procedural matter. Any time remaining from their allocated 30 minutes can be used to question Colleen Davenport on February 13, 2018, to question Ms. Davenport as it relates to the procedural matter.

ORDER

1. Yuba City's motion for reconsideration is granted.

2. The 60-minute hearing concerning the procedural matter shall commence on February 12, 2018, with each side given 30 minutes to question witnesses regarding the procedural matter.

3. Any time remaining from each side's allocated 30 minutes can be used to question Ms. Davenport on February 13, 2018, to question her regarding the procedural matter.

IT IS SO ORDERED.

DATE: February 8, 2018

DocuSigned by:
Rebecca Freie
D1AE8D9E81A848C...

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings