BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LANCASTER SCHOOL DISTRICT,	OAH Case No. 2019050394
LANCASTER SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019041161 ORDER DENYING LANCASTER SCHOOL DISTRICT'S REQUEST FOR RECONSIDERATION

On May 10, 2019, the undersigned Administrative Law Judge issued an Order granting Student's motion to consolidate, vacating the hearing dates set in Lancaster School District's case, and adopting the 45-day timeline for issuance of the decision based upon the filing of Student's case on May 7, 2019.

On May 13, 2019, Lancaster filed a motion for reconsideration, citing that the ALJ did not consider its 'Non-Opposition In Part;' and citing prejudice to Lancaster because its due process hearing dates of May 21, 22, and 23, 2019 were vacated, and replaced by Student's due process hearing dates of July 9, 10, and 11, 2019, when Lancaster School District is not in session.

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.)

The Procedural Safeguards set forth in the California Education Code delineate the rights of the parties to file and respond to a request for a due process hearing and mediation.

(Ed. Code, §§ 56501, 56501.5, 56502, 56503.) When a student files a due process request, there is a mandatory resolution session which must be completed within 30 days, unless both parties state in writing that they jointly waive that session. The 45-day timeline starts the day after the 30-day resolution period ends. (Ed. Code, §56501.5 subd. (a)(4), (c), (d).)

DISCUSSION

Reconsideration

Lancaster alleges the ALJ did not consider its Non-Opposition In Part, which objected to OAH using the July hearing dates in Student's case. It reasoned the July hearing dates will create substantial prejudice because its teachers will be on summer break and not under a contract to appear at due process hearing.

However, Lancaster's request to proceed with its original May 21, 22, and 23 hearing dates would circumvent the procedural safeguards, by holding a hearing less than two weeks after Student's due process request was filed, on May 7, 2019.

Lancaster alleges no new facts, circumstances, or law which would waive the 30-day resolution session requirements. Lancaster has not requested a mediation, and the parties have not jointly waived the resolution session. Therefore, there is no justification for maintaining Lancaster's original hearing dates and denying the Student the right to a resolution session under Education Code § 56101.5.

Accordingly, Lancaster's request for reconsideration is denied.

ORDER

The Motion for Reconsideration is Denied.

IT IS SO ORDERED.

DATE: May 13, 2019

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Deborah Myers-Cregar
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DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings