BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SALINAS UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2023040286

ORDER GRANTING RECONSIDERATION, AND GRANTING REQUEST TO VACATE DATES FOR NONEXPEDITED PREHEARING CONFERENCE AND NON-EXPEDITED HEARING

APRIL 27, 2023

On April 7, 2023, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Salinas Union High School District. The Office or Administrative Hearings is referred to as OAH. On April 10, 2023, OAH issued a scheduling order setting dates for both expedited and non-expedited prehearing conferences and hearings as one claim potentially gave rise to expedited and non-expedited issues.

On April 24, 2023, the undersigned convened the prehearing conference for the expedited hearing, scheduled for May 3 and 4, 2023. The parties discussed the expedited issues. Once clarified, the undersigned determined, and the parties agreed, that Student's complaint did not include any non-expedited issues. Salinas moved to vacate the dates for the non-expedited prehearing conference and non-expedited hearing. Counsel for Student objected on the grounds that he planned to file an amended complaint with non-expedited issues. Salinas's request to vacate non-expedited dates was denied.

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, generally within ten days. (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 undersigned, on its own motion, reconsiders her April 24, 2023 ruling denying Salinas's request to vacate dates for the non-expedited prehearing conference and non-expedited hearing.

Upon further reflection following the PHC, Salinas's request to vacate the non-expedited prehearing conference and hearing should have been granted. After issue clarification, there was no basis for Student to amend the complaint. An expedited complaint cannot be amended as the IDEA's provision governing expedited complaints does not include the ability to amend. (20 U.S.C. § 1415(k)(4)(B).) Student's April 7, 2023 compliant did not contain any non-expedited issues and therefore there are no issues to amend.

Student did subsequently file a Motion to Amend and an Amended Complaint that contains only non-expedited issues and named two additional local educational agencies as respondents. A separate order will address Student's motion to amend.

On Reconsideration, Salinas's request to vacate dates for the non-expedited prehearing conference and non-expedited hearing is Granted. All previously set non-expedited dates are accordingly vacated. This matter will proceed on the sole issue of Student's complaint through the expedited hearing process.

IT IS SO ORDERED.

Rita Defilippis

Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings