BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. MANTECA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013080296
MANTECA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013050805 ORDER GRANTING REQUEST FOR RECONSIDERATION; GRANTING REQUEST TO ADVANCE DUE PROCESS HEARING UPON WAIVER OF RESOLUTION SESSION; AND, SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

On August 26, 2013, Parent, on behalf of Student, filed a notice of waiver of resolution session and requested that the dates for prehearing conference and due process hearing in these consolidated matters be advance. The Office of Administrative Hearings (OAH) did not receive a response from the Manteca Unified School District (District). On August 29, 2013, the undersigned issued a Notice of no Action concerning Student's request because District had not affirmatively joined in Student's request. Shortly thereafter, on August 29, 2013, District filed a notice of waiver of resolution session and request to advance the time line for due process. This is treated as a motion for reconsideration.

APPLICABLE LAW AND DISCUSSION

Reconsideration

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.)

Here, the original request by Student was not denied, but rather, was not acted upon by OAH. The parties were free to resubmit their request if both parties jointly waived resolution session and requested that the due process hearing dates be advanced. District's request, taken in conjunction with Student's request, complies with the requirements and constitutes new facts. Accordingly, reconsideration of the undersigned's Notice of no Action is granted.

Request to Advance Due Process Hearing

A school district, or local education agency, must convene a meeting to discuss the issues raised in a due process complaint in order to attempt to resolve the dispute. (34 C.F.R. § 300.510 (a)(1),(2).) This meeting is commonly known as a resolution session. A resolution session need not be held if the parent and school district agree in writing to waive it (*Id*. at § 300.510 (a)(3)(i)) or if the parent and school district agree to use mediation instead of a resolution session (*Id*. at § 300.510 (a)(3)(ii)). If the parties agree to waive the resolution session, the 45-day timeline for a due process hearing begins the day after the waiver. (*Id*. at § 300.510(c)(1).) However, the timeline does not automatically begin if the parties agree to use mediation instead of a resolution session. (*Id.* at § 300.510(c).)

When the parties agree in writing to waive a resolution session, OAH will move forward the dates for mediation, prehearing conference, and hearing to accommodate the beginning of the 45-day timeline for hearing. However, a waiver of the resolution session period and request to advance dates must be in writing and signed by at least one representative for each party.

Here, the parties have complied with the requirements to advance the due process hearing. Their request is granted. The parties request a prehearing conference on August 30, 2013, and due process hearing on September 10 through 11, 2013. While the requested prehearing conference date is on short notice, OAH will accommodate the parties' request. The request is granted.

ORDER

1. The request for reconsideration is granted.

2. The request to advance the due process hearing is granted. The 45-day time line for the completion of the due process hearing and the issuance of a written decision is deemed to begin as of the date of this order.

3. The prehearing conference in this matter is set for August 30, 2013, at 1:00 p.m.

4. The due process hearing in this matter is set for September 10 – 11, 2013, starting at 9:30 a.m., and continuing day-to-day, Monday through Thursday, at the discretion of the Administrative Law Judge presiding at the hearing.

Dated: August 29, 2013

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings