BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2019020637
CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019011184 ORDER DENYING REQUEST FOR RECONSIDERATION

On May 14, 2019, prior to the commencement of testimony[1], the undersigned administrative law judge, issued an oral order that the documents subject to Capistrano Unified School District's subpoenas duces tecum issued to Halstrom Academy aka Futures Academy; Dr. Claudia Avina, Dr. Jonathan Romain, Dr. Michael Linden, Dr. Katherine Williamson, Dr. Charles Grob, and CHOC Children's Hospital of Orange County, were relevant to the issues presented by Student in her request for due process hearing. With the exception of the documents produced by Halstrom Academy, the documents produced related to Student's medical and mental health records. Therefore the ALJ ordered that (1) all documents produced would be held in camera by the ALJ; (2) subpoenaed documents would be released to Capistrano's attorney for rebuttal purposes only, upon a showing that Student presented testimony or exhibits at hearing subject to rebuttal and/or cross examination of witnesses presented on Student's behalf; (3) each document offered into evidence by Capistrano would be subject to objection regarding relevance; and (4) Capistrano was barred from making copies of any document not entered into evidence; and (5) all subpoenaed documents not entered into evidence would be retained by the ALJ and destroyed after completion of the hearing.

[1] Student filed her Motion to Quash after the Prehearing Conference, and filed her Reply to Capistrano's opposition to the Motion to Quash the Friday afternoon prior to the commencement of hearing, thereby making it impractical to provide and serve seven individual written orders to address Student's motion to quash. Therefore, Student's motion and Capistrano's opposition were heard orally on May 14, 2019.

On May 16, 2019, Capistrano made a request for the release of the documents provided by Dr. Williamson. Based upon the issues presented by Student in her complaint, the testimony and exhibits already provided by Student as of May 16, 2019, and Dr. Williamson's scheduled testimony on behalf of Student, the ALJ determined the documents provided by Dr. Williamson would be released to Capistrano's attorney for review. After extensive discussion both on and off the record, the ALJ agreed to stay the release of Dr. Williamson's documents until May 21, 2019, to allow Student time to determine whether she wished to proceed with her case, and/or file any appropriate motions on Student's behalf.

On May 17, 2019, Student filed a Motion for Reconsideration regarding the release of Dr. Williamson's documents. Although it is anticipated Capistrano will file an opposition to Student's motion, such response is unnecessary, as Student's motion fails as a matter of law.

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

Reconsideration

Student now alleges she contacted Dr. Williamson's office and learned the manner in which Dr. Williamson, and or her custodian of records amassed and prepared the documents produced in compliance with the subpoena duces tecum. Student contends these documents were improperly copied and contain documents not requested in the subpoena. The alleged inclusion of additional documents and records irrelevant to this hearing does not defeat Capistrano's right to subpoena documents relevant to Student's case and evidence. Student may still raise relevancy objections to individual documents if offered into evidence by Capistrano.

Further, the motion is not accompanied by a sworn declaration by Mother in making these claims, nor is there a declaration from Dr. Williamson or her custodian of records in support of Student's allegations.

Accordingly, Student's request for reconsideration is denied.

ORDER

Student's Motion for Reconsideration is denied.

IT IS SO ORDERED.

DATE: May 20, 2019

DocuSigned by:
Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings