

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Appellate Division

SUBJECT: Philadelphia Parent Child DATE: April 13, 2010
 Center, Inc.
 Reconsideration of Decision No. 2297
 Ruling No. 2010-3

Ruling on Request for Reconsideration

Philadelphia Parent Child Center, Inc. (PPCC), a Head Start grantee, requested reconsideration of the Board's decision in Philadelphia Parent Child Center, Inc., DAB No. 2297 (2009) (Board Docket Nos. A-09-14, A-09-66). The Board has the authority to reconsider its own decision where a party "promptly alleges a clear error of fact or law." 45 C.F.R. § 16.13. As explained below, PPCC has not alleged a clear error of fact or law, and we deny the request.

In the portion of the decision relevant to PPCC's request, the Board reversed in part and affirmed in part the disallowance by the Administration for Children and Families (ACF) of costs PPCC claimed towards its required non-federal share of Head Start expenditures for the program year November 1, 2006 through October 31, 2007. ACF disallowed the costs, which consisted primarily of in-kind contributions of volunteer services, mostly from parents of Head Start children, on the ground that they were not adequately documented. The Board reviewed extensive documentation PPCC submitted with its appeal and determined that much of it reliably established the eligibility and amount of in-kind contributions, but that some of the documentation was inadequate. The Board remanded the case to ACF to determine the amount of PPCC's allowable non-federal share, and thus the amount of the disallowance, in accordance with the Board's determinations as to which items of documentation were

acceptable, or could be acceptable if further explained by PPCC as the Board permitted for some items of documentation.¹

With its request for reconsideration, PPCC submits over 1,300 pages of documents that PPCC says the Board failed to consider. PPCC asserts that "due to the volume of the documents submitted to the Board [in the appeal], it is uncertain whether the exclusion of these documents from the Board's decision was due to an inadvertent oversight by the Board, or by an error on the part of PPCC in copying the documents for submission as 'Exhibit 18.'" Request for Reconsideration at 2. According to PPCC, the documents it submits with its request for reconsideration relate to either volunteer services in Classrooms S1-S4 or volunteer services by teachers during home visits. The documents consist of (1) "Volunteer Forms" recording the number of hours a volunteer associated with a specific classroom worked during a given month and the activity performed; and (2) monthly "In-Kind" spreadsheets listing the number of hours individuals spent on various activities, including home visits.

In DAB No. 2297, the Board considered whether PPCC documented volunteer services provided in "Classrooms S1-S4" by parents of children enrolled in Head Start. The documents on which PPCC relied consisted of "Volunteer Forms" in PPCC Exhibit 18 (which contain the same type of information as the Volunteer Forms submitted with PPCC's request for reconsideration), as well as "Master Sheets" in PPCC Exhibit 17B that compile the information reported on the Volunteer Forms for each month for each classroom. We found that, on their face, the Volunteer Forms and Master Sheets "demonstrate PPCC's receipt of volunteer services that PPCC could use as in-kind contributions applicable to its required non-federal share of Head Start costs." DAB No. 2297, at 13. We noted, however, that "PPCC's Exhibit 18 does not appear to contain Volunteer Forms for 'Classrooms S1-S4' for all of the months for which PPCC reports the receipt of in-kind personnel services for those classrooms" on the Master Sheets.²

¹ The Board also sustained the disallowance of \$387,238 in salaries for 12 Head Start and Early Head Start positions that PPCC failed to document adequately as required by applicable cost principles. PPCC's request does not address that portion of DAB No. 2297.

² For example, the forms originally submitted by PPCC for the month of October referenced only Classrooms S2, S3 and S4.

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Id. at 15. In DAB No. 2297, the Board also considered whether PPCC documented volunteer services provided by Head Start teachers. We noted that PPCC Exhibit 17(B) contained spreadsheets apparently reporting services in the form of home visits and other activities. Id. However, we observed that there "does not appear to be source documentation of the volunteer services attributable to the teachers." Id. Thus, we concluded that, of the in-kind personnel services PPCC's accounting records showed were claimed as in-kind contributions, only "the amount of in-kind contributions of volunteer services that are supported by the documentation in PPCC's Exhibit 18"--to be determined by ACF on remand--is allowable. Id.

PPCC's request for reconsideration in effect seeks a determination that additional costs are allowable based on documents allegedly not considered by the Board in DAB No. 2297. First, PPCC suggests that the Board may have failed to consider documents submitted by PPCC in the proceedings leading to that decision. Our comparison of the record for that decision and the documents PPCC submits with its request for reconsideration discloses, however, that most of the Volunteer Forms, and some of the spreadsheets, submitted with the request for reconsideration were part of the record for DAB No. 2297. Specifically, most of the Volunteer Forms submitted with the request for reconsideration are in PPCC Exhibit 18, and some of the spreadsheets submitted with the request for reconsideration are in PPCC Exhibit 17B. As indicated above, the Board considered the Volunteer Forms in PPCC Exhibit 18, even remarking that PPCC Exhibit 18 did not contain Volunteer Forms in support of all of the claimed volunteer services by parents. As also indicated above, the Board considered the spreadsheets in PPCC Exhibit 17B but found that these spreadsheets alone were inadequate to document any volunteer services by teachers because no underlying source documentation had been submitted. Thus, PPCC incorrectly surmises that documents already in the record were not considered by the Board. Instead, the only Volunteer Forms and spreadsheets not considered by the Board have been submitted for the first time with PPCC's request for reconsideration. PPCC has, therefore, failed to show that the Board erred in DAB No. 2297 by not considering documents in the record for that decision.

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PPCC submits with its request for reconsideration forms for all four classrooms, including S1, for the month of October.

We note, however, that PPCC's request for reconsideration attaches to the spreadsheets showing volunteer services by teachers some of the same Volunteer Forms the Board in DAB No. 2297 accepted as documenting volunteer services by parents-- i.e., Volunteer Forms relating to home visits. The placement of these documents suggests an argument that Volunteer Forms relating to home visits should be considered as source documentation for not only volunteer services by the parent who participated in the home visit, but also volunteer services by the teacher who made the home visit. PPCC made no such argument on appeal.

Second, PPCC suggests in the alternative that, due to a copying error, it may have failed to include in its prior submissions the documents submitted with its request for reconsideration. This does not constitute an allegation of an error of fact or law by the Board justifying reconsideration of DAB No. 2297. See, e.g., Ruling on Request for Reconsideration of Recovery Resource Center, Inc., DAB No. 2063 (2007), Board Ruling No. 2007-2, at 4 (May 16, 2007) (grantee's "failure . . . to work with its chosen counsel to provide documentation and argument that could support its position raises no allegation of error in the Board Decision"); Ruling on Request for Reconsideration of Peoples Involvement Corporation, DAB No. 1967 (2005), Board Ruling No. 2005-2, at 2 (Apr. 29, 2005) (a "motion for reconsideration is far too belated a context in which to undertake to present [additional] documentation" where the grantee "made no claim that this documentation was not available to it earlier in this process"). Here, PPCC concedes that the documents submitted with its request for reconsideration were available to it during the proceedings leading to DAB No. 2297. In addition, PPCC does not, and cannot, claim that it did not have ample notice that it was required to submit during those proceedings all documents that, in its view, established the existence and allowability of the volunteer services it claimed as in-kind contributions. The Board's regulations at 45 C.F.R. Part 16, a copy of which was provided by the Board to PPCC upon receipt of each of its two appeals, put PPCC on notice of "appellant's responsibility" to submit to the Board an "appeal file containing the documents supporting the claim," i.e., "those documents which are important to the Board's decision on the issues in the case." 45 C.F.R. § 16.8(a). PPCC was also advised during the telephone conference convened in these appeals of the importance of connecting the dots in demonstrating how it has met its non-federal share obligation. See Confirmation of Telephone Conference dated 5/8/09, at 2.

Accordingly, we deny PPCC's request for reconsideration.

_____/s/
Judith A. Ballard

_____/s/
Leslie A. Sussan

_____/s/
Stephen M. Godek
Presiding Board Member