

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ROMOLAND SCHOOL DISTRICT.

OAH CASE NO. 2010101007

ORDER DENYING REQUEST FOR  
RECONSIDERATION

On November 8, 2010, an order denying District's Motion to Dismiss Student's complaint was issued. On November 10, 2010, District filed a Motion for Reconsideration. On November 15, 2010, Student filed an opposition to the motion. On November 16, 2010, District filed a response to Student's opposition.

As discussed below, District's Motion for Reconsideration reiterates the arguments stated in its original Motion, and is denied.

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 AND ORDER

Student's complaint alleged that he was currently a fifth grade student who was made eligible for special education at the age of three. It stated that he exhibited social, behavioral and academic deficits, and was struggling in school. It alleged that Parents had been trying to obtain his educational records, and to obtain proper services to address his unique needs, from District. It stated one legal issue: "Did District violate Parent and student's Procedural rights by not timely providing Parent with student's records and thereby denied FAPE?"

On November 2, 2010, District filed its Motion to Dismiss and Request for Sanctions, which Student opposed. District's Motion made factual contentions that it had in fact

provided Student's records. The Motion also made factual contentions that Student had previously been exited from special education, and therefore lacked standing to enforce the procedural protections of the IDEA. Student opposed the Motion, making contrary factual assertions.

On November 8, 2010, OAH denied District's Motion, holding that special education law does not provide for a summary judgment procedure. Since the Motion sought a ruling on the merits, it was denied.

District now moves for reconsideration, arguing again that it did in fact provide Student with his educational records.<sup>1</sup> District also reiterates its previous factual contentions that Student had previously been exited from special education, arguing again that he is therefore not a "student with a disability," and lacks standing to enforce the procedural protections of the IDEA.

The Motion for reconsideration is denied. The factual dispute over Student's eligibility for special education requires a determination on the merits and cannot be adjudicated by motion practice. Student's complaint alleges he was made eligible for special education; the complaint is therefore facially within OAH's jurisdiction. As previously ordered, special education law does not provide for a summary judgment procedure.

Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

Dated: November 18, 2010

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> District's Motion also makes factual assertions about events after the date the complaint was filed, which are irrelevant to facial sufficiency of the complaint.