

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CALIFORNIA DEPARTMENT OF
MENTAL HEALTH.

OAH CASE NO. 2010110500

ORDER DENYING REQUEST FOR
RECONSIDERATION

On February 14, 2011, the undersigned administrative law judge issued a Decision finding that the California Department of Mental Health (CDMH) was a responsible education agency for providing with mental health services to Student, commonly referred to as AB 3632 services.¹ On March 10, 2011, CDMH filed a motion for reconsideration based on new law, *California School Boards Ass'n. v. Brown* (2011) 192 Cal.App.4th 1507. On March 14, 2011, Student filed an opposition to CDMH's motion, which contended that OAH does not have jurisdiction to entertain CDMH's motion for reconsideration. CDMH filed a reply brief on March 17, 2011.

APPLICABLE LAW

The Office of Administrative Hearings (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.)

¹ California has established a statutory scheme that provides for interagency responsibility in regards to the provision of special education related services, including mental health services. (Gov. Code, §§ 7570–7588 (Ch. 26.5).) The statutory scheme is known as AB 3632 after the Assembly Bill that created the law.

DISCUSSION AND ORDER

In the absence of statutory authority, administrative agencies lack the general authority to reconsider their administrative hearing decisions. (*Bonnell v. Medical Bd. of California* (2003) 31 Cal.4th 1255, 1260; Gov. Code, § 11521, subd. (a).) The procedural hearing and decision safeguards in Education Code, section 56505 and California Code of Regulations, title 5, sections 3082 and 3089, do not grant OAH the authority to reconsider a final hearing decision.

Accordingly, CDMH's motion for reconsideration is Denied.

IT IS SO ORDERED.

Dated: April 12, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings