

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SOUTH PASADENA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011030964 ORDER DENYING REQUEST FOR RECONSIDERATION
SOUTH PASADENA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2011080112

On September 15, 2011, the undersigned administrative law judge issued an order denying District’s motion to dismiss or limit remedies. On September 23, 2011, District filed a request for reconsideration. District’s request included declarations under penalty of perjury addressing the merits of its earlier motion to dismiss. District asserts that it was not given the opportunity to file additional evidence in reply to Student’s opposition before the order denying its motion was issued.

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.)

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc.....), special education law does not provide for a summary judgment procedure.

District's motion for reconsideration offers evidence in support of, and argues the merits of, its motion to dismiss rather than addressing the basis on which the motion was denied. As discussed above, OAH does not grant summary judgment on issues that are not facially outside OAH jurisdiction. The issue of entitlement to remedies is within OAH jurisdiction and must be determined by the hearing judge based upon evidentiary findings at the hearing. Accordingly, the motion for reconsideration is denied.

IT IS SO ORDERED.

Dated: September 26, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings