

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ANAHEIM UNION HIGH SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012030349

ORDER DENYING REQUEST FOR
RECONSIDERATION

On April 26, 2012, the undersigned administrative law judge issued an order denying Student's request to add Fullerton Joint Union High School District (Fullerton) as a party to this proceeding. On May 4, 2012, Jeffrey J. Riel, Attorney at Law, filed a request for reconsideration on behalf of Anaheim Union High School District (District). On May 7, 2012, the Office of Administrative Hearings (OAH) received an opposition to District's request for reconsideration from Gregory B. Endelman, Director of Special Education for Fullerton.¹ OAH has not received a response from Parent on behalf of Student.

APPLICABLE LAW

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.)

DISCUSSION AND ORDER

District fails to provide any new or different facts, circumstances or law justifying reconsideration. The motion for reconsideration recounts the same facts contained in the request for due process hearing (complaint). District cites statutory and case law in support of Student's request to add Fullerton as a party, and provides an explanation as to why

¹ This opposition was not relied upon as Fullerton is not a party to this proceeding.

District filed this action against Student. District fails to provide a sufficient explanation for its failure to provide its supporting arguments in response to Student's motion and why it waited until now to file its position on the issue.² District had the opportunity to reply and assumed the risk of failing to respond to Student's motion to add a party. Regardless, while District restates in detail the allegations contained in its complaint, it fails to allege any new facts, law or circumstances, not previously considered.

District essentially contends that the interests of justice require reconsideration as Student is unrepresented; the parties agree that Fullerton is a necessary party; and District is unable to file a request for due process against Fullerton. In the April 26, 2012 Order Denying Motion to Add Party, Student is provided with guidance as to how to pursue the remedy he seeks. Fullerton is not a necessary party as defined by the Civil Code in as much as complete relief can be accorded among the parties based upon the relief sought by District. Similarly, should Student file a due process request against District and Fullerton, then Student can pursue his requested relief. Fullerton is not claiming an interest in these proceedings but is rather opposing any motion to be added as a party. District, in moving for reconsideration, is seeking to apply the Code of Civil Procedure and to use the processes of OAH to accomplish that which it is prohibited under the Education Code from doing, namely pursuing a complaint against another public agency.

Failing to join Fullerton does not deny District its right to pursue a ruling that it is not responsible for funding Student's educational program, nor is Student denied his right to file a complaint and pursue a claim for a free appropriate education against District and Fullerton. Requiring Student to file a due process complaint to seek a remedy against either District or Fullerton is not manifestly unjust.

Accordingly, District's request for reconsideration is Denied.

IT IS SO ORDERED.

Dated: May 9, 2012

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

² District's position that "due to past ruling by OAH, [it] did not submit a response to Parents' letter submitted to OAH because the District had never seen such a request from a parent denied" is at best disingenuous.