

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011090949

ORDER DENYING REQUEST FOR
RECONSIDERATION

On February 29, 2012, the undersigned Administrative Law Judge (ALJ) issued an Order Denying Student's Motion to Amend Complaint. On February 29, 2012 Student filed a motion for reconsideration of the order. District filed opposition to the motion on March 5, 2012. As discussed below, Student's motion 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

In his motion for reconsideration Student alleges no new facts and circumstances in support of the request for reconsideration. The motion recites facts and circumstances that were in existence prior to filing the instant motion and that were alleged in the motion to amend complaint. Student also fails to cite any new law that would warrant reconsideration. First, Student's reliance on the ruling by ALJ Robert Helfand in the matter of *Parents on behalf of Student v. Red Bluff Elementary School District*, OAH Case No. 2011080264, is misplaced. Second, OAH decisions are not binding authority on the ALJ in the instant matter pursuant to California Code of Regulations, title 2, section 3085. More importantly, whether an amendment should be granted is fact-specific. In this case, the age of the matter weighs toward denying the motion to amend.

It appears counsel for Student has failed to appreciate that motions to amend are not automatically granted, particularly for matters that are five months old at the time the motion is filed and when the respondent is ready to proceed. Student has the option of withdrawing his complaint and refiling to assert additional matters or proceeding with the instant matter and filing a new complaint to cover the more recent period.

Based upon the foregoing discussion the motion for reconsideration is denied.

IT IS SO ORDERED.

Dated: March 05, 2012

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings