

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HAYWARD UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012090581

ORDER GRANTING REQUEST FOR
RECONSIDERATION AND DENYING
STUDENT'S REQUEST TO VOID
ORDER RE DISMISSAL OF SELPA

On October 9, 2012, the undersigned administrative law judge issued an Order dismissing the Mid-Alameda County SELPA (SELPA) from Student's Request for Due Process Hearing Complaint (complaint). On October 22, 2012, Parent on behalf of Student (Student or sometimes Parent), filed what appears to be a Request for Reconsideration (request) based upon Student's claim that Parent had not waived notice, and Parent had not been served with a copy of the SELPA's Request for Dismissal. Student requests, that upon reconsideration, the Order Dismissing the SELPA be voided. Neither Hayward Unified School District (District) nor the SELPA have filed opposition to Student's request.

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 properly alleges that Parent did not waive notice of the Request to Dismiss the SELPA, and there is no OAH record showing proof of service of the SELPA Request for Dismissal upon Parent. On that basis alone, Student's request is proper.

Student's request, however, is not accompanied by a sworn declaration by Parent. Given that Student is being represented by Parent, the formal requirements of reconsideration shall be set aside in favor of consideration of the actual content of Parent's claims. Unfortunately, Student's request only addresses the lack of proper notice, and does not

provide any information, which would justify a change in the Order Granting Dismissal of the SELPA. Student has now clearly received notice of the SELPA's contention and rationale that it is not a proper party to Student's complaint. Student's complaint does not allege that the SELPA had any responsibility to provide Student with a free appropriate public education (FAPE). Further, the complaint does not allege that the SELPA provided services to Student or participated in any of Student's individualized educational plan (IEP) meetings. Student has not provided any information which would change the factual basis or legal analysis of the Order Granting Dismissal of the SELPA from Student's complaint. Therefore, having reconsidered the SELPA's request for dismissal, Student's request that the Order Dismissing the SELPA is denied.

Student's request to void the October 9, 2012 Order Dismissing the Mid-Alameda County SELPA from Student's complaint is also denied.

IT IS SO ORDERED.

Dated: October 24, 2012

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings