

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN JUAN UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010050862

ORDER DENYING REQUESTS FOR
RECONSIDERATION AND FOR
ATTORNEYS' FEES

On May 18, 2011, the undersigned Administrative Law Judge issued a final Decision in this matter in favor of the San Juan Unified School District (District). On May 31, 2011, Student filed a request for reconsideration of the Decision. On June 3, 2011, the District filed an opposition to the motion and requested an award of attorneys' fees for opposing the motion on the ground that the motion was frivolous.

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.)

DISCUSSION AND ORDER

The grounds for reconsideration described above apply to rulings made in the course of a special education due process proceeding. They do not apply to a decision, which is final when rendered. (Ed. Code, § 56505, subd. (h).) 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.) The limited power to reconsider a decision rendered under the Administrative Procedure Act, for example, exists by virtue of statute (Gov. Code, § 11521, subd. (a)), and does not apply to special education proceedings.

OAH's jurisdiction is granted and defined by statute. (See *Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) The hearing and decision procedures in Education Code section 56505 and California Code of Regulations, title 5, sections 3082 and 3089, do not include the authority to reconsider a final hearing decision.

Accordingly, OAH lacks jurisdiction to reconsider the Decision herein, and Student's motion for reconsideration is therefore Denied.

For the same reasons, OAH no longer has jurisdiction to award sanctions, so the District's motion for an award of attorneys' fees is also Denied.

IT IS SO ORDERED.

Dated: June 3, 2011

/s/

CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings