

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BONITA UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012080054

ORDER DENYING REQUEST FOR  
RECONSIDERATION

On August 9, 2012, the undersigned Administrative Law Judge (ALJ) issued an order finding that Issue Number Two in Student's request for a due process hearing (complaint) was outside the jurisdiction of the Office of Administrative Hearings (OAH), and thus ordered a dismissal of the issue.

On August 17, 2012, Deborah L. Pepaj, Attorney for Student filed a motion for reconsideration (motion) of the order on behalf of Student.

District filed no response to the motion.

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

Student alleges no new facts, circumstances, or law in support of the request for reconsideration. The motion was not accompanied by a sworn declaration showing facts or circumstances different from those evaluated by, and relied upon by the ALJ before issuing the August 9, 2012 order that is sought to be reconsidered. Neither Student's complaint nor his motion for reconsideration provide a description of a problem as to his "placement" issue that involves the denial of a free appropriate public education (FAPE) under special education law.

Further, Student's contention that his earlier opposition (to District's motion to dismiss) "clarifies" Issue Number Two is not persuasive. First, the opposition was untimely and was filed on August 10, 2012, a day after the undersigned has ruled on District's motion to dismiss Issue Two. Second, it is also unclear whether Student was attempting to amend his complaint with his response (opposition) to District motion to dismiss, or otherwise. Such an attempt in the body of the response would have been improper. Thus, even if Student's opposition had been timely and considered, it would not have altered the ruling.<sup>1</sup>

For the forgoing reasons therefore, Student's request for reconsideration is denied.

IT IS SO ORDERED.

Dated: August 28, 2012

/s/

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ADENIYI AYOADE  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> Student has the right to file a motion to amend his complaint, which should provide specific facts regarding the alleged placement issue raised in Issue Number Two, and how District's act or omission relating to claimed denial of Student's placement request might have denied Student a FAPE. If the motion is granted, the filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).) Further, the amended complaint must comply with the requirements of title 20 United States Code section 1415 (b)(7)(A)(ii).