BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

FREMONT UNIFIED SCHOOL DISTRICT AND CAMPBELL UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2024080680

ORDER DENYING CAMPBELL'S REQUEST FOR RECONSIDERATION

OCTOBER 22, 2024

On August 19, 2024, Parents, on behalf of Student, filed a Request for Due Process Hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Campbell Union School District and Fremont Unified School District as respondents. On October 1, 2024, Campbell filed a Motion to Dismiss itself as a party, on the ground that all allegations against it were barred by the statute of limitations. Campbell's motion also included a request to dismiss Student's issue number three on the grounds that OAH lacks jurisdiction to adjudicate the issues alleged. Neither Student nor Fremont responded to Campbell's motion.

On October 10, 2024, the undersigned issued an order denying Campbell's motion to dismiss itself as a party and granted the motion to dismiss Student's issue number three. On October 17, 2024, Campbell filed a motion to reconsider the denial of Campbell's motion to dismiss itself as a party. OAH received no response to the request for reconsideration from either Fremont or Student.

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, generally within ten days. (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

Campbell asserts that the undersigned failed to consider the fact that Student:

> "does not actually plead piercing the statute of limitations. The absence of specific allegations of piercing the statute of limitations was not considered by OAH in its denial of the District's Motion and therefore requires reconsideration."

The original order denies Campbell's motion to dismiss itself as a party on the grounds that the allegations against it precede a date two years prior to the date of filing of the complaint. The order notes that allegations predating two years prior to filing the statute of limitations were included in the complaint, and that Campbell failed to offer any persuasive legal authority that requires OAH to summarily dismiss issues

facially outside the two-year statute of limitations. The order also stated that, whether Student can assert claims against Campbell is a mixed question of law and fact, and that, absent a summary judgment process, which is not available in special education proceedings, an evidentiary hearing is required.

In its motion for reconsideration, Campbell argues that Student is required to "clearly and specifically describe the alleged facts in support of piercing the statute of limitation." This argument is accompanied by no legal authority. Indeed, Campbell has offered no new law or facts supporting reconsideration. The motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings