BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. NEVADA JOINT UNION HIGH SCHOOL DISTRICT; GRASS VALLEY SCHOOL DISTRICT; and NEVADA CITY SCHOOL DISTRICT.	OAH Case No. 2015030003 ORDER GRANTING IN PART AND DENYING IN PART DISTRICTS' MOTION FOR RECONSIDERATION

On April 2, 2015, the undersigned administrative law judge issued an order granting in part and denying in part the motion to dismiss filed by the Nevada Joint Union High School District, the Grass Valley School District, and the Nevada City School District. In pertinent part, the order found that Student had raised facts sufficient to state a claim that an exception existed to the applicable two-year statute of limitations. The order found that Student had stated a prima facie case that the districts had failed to provide his parent with a notice of procedural safeguards during 2006 and 2009 when Student's parent had allegedly requested Student be assessed for special education eligibility.

The districts filed a motion for reconsideration on April 3, 2015, and an amended motion for reconsideration on April 6, 2015. The districts point out that Student's due process complaint does not contend that Grass Valley refused to assess Student in either 2006 or 2009, and does not allege that Grass Valley failed to provide Student's parent with a copy of the procedural safeguards. Therefore, Student failed to raise any cognizable exception to the statute of limitations as to Grass Valley. The districts therefore maintain that Student's due process complaint should be fully dismissed as to Grass Valley.

Student filed an opposition to the districts' motion for reconsideration on April 6, 2015. Student acknowledges that his allegations regarding school years 2005-2006 and 2008-2009 only pertain to Nevada City. However, Student also points out that he has raised issues regarding Grass Valley that fall within the two-year statute of limitations, which begins as of February 23, 2013.

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

The districts are correct that Student's complaint alleges no specific facts that would constitute a basis for finding that an exception to the statute of limitations applies to Grass Valley. Therefore, the districts' motion for reconsideration is granted as to any allegations in Student's complaint that Grass Valley denied Student a free appropriate public education prior to February 23, 2013. However, Student also contends that Grass Valley was responsible for his education subsequent to February 13, 2013, and should have found him eligible for special education during the time covered by the two-year statute of limitations. Those allegations are properly before OAH in the instant proceeding.

ORDER

1. The districts' motion for reconsideration is partially granted. All allegations pertaining to Grass Valley arising prior to February 23, 2013, are dismissed.

2. The districts' motion for reconsideration as to all allegations pertaining to Grass Valley is denied. Student may proceed with any allegations pertaining to Grass Valley that allegedly occurred on or after February 23, 2013.[1]

DATE: April 7, 2015

/S/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings

[1] On April 1, 2015, the districts filed a motion to strike as untimely Student's opposition to the districts' motion to dismiss. Student's opposition was filed a day late. However, the districts failed to demonstrate any prejudice by the one-day delay in Student's filing of his opposition. In any case, the decision to deny the districts' motion to dismiss as to Nevada City would have been the same even had Student's opposition not been considered. Student's complaint itself alleges facts sufficient to state a possible exception to the two-year statute of limitations. The districts' motion to strike is therefore denied.