BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

EDUCATIONAL REPRESENTATIVE ON BEHALF OF STUDENT,

v.

PARAMOUNT UNIFIED SCHOOL DISTRICT,

PASADENA UNIFIED SCHOOL DISTRICT,

PALMDALE UNIFIED SCHOOL DISTRICT, LOS ANGELES COUNTY OFFICE OF EDUCATION, LONG BEACH UNIFIED SCHOOL DISTRICT, AND DEPARTMENT OF CHILDREN AND FAMILY SERVICES

OAH CASE NUMBER 2020100542

# ORDER DENYING STUDENT'S REQUEST FOR RECONSIDERATION

NOVEMBER 16, 2020

On November 9, 2020, the undersigned Administrative Law Judge issued an order dismissing Department of Children and Family Services as a party in this matter for lack of jurisdiction. On November 12, 2020, Educational Representative on Behalf of Student

filed a Motion for Reconsideration of the November 9, 2020 Order Granting Department of Children and Family Services' Motion to be Dismissed as a Party for Lack of Jurisdiction. The Office of Administrative Hearings did not receive a response from Department of Children and Family Services, DCFS.

## 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, 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

Student did not file an opposition to DCFS' Motion to Dismiss because it alleges it was not served a copy of DCFS's motion. Student's Motion for Reconsideration was filed within a reasonable time after the November 9, 2020 Order was issued. Therefore, Student's Motion for Reconsideration was timely and considered by OAH.

Student's Request for Reconsideration offers no new facts, circumstances or law to support reconsideration. The gravamen of Student's argument is that DCFS is a public agency that has interagency responsibility under the Individuals with Disabilities Education Act, referred to as IDEA. Student conflates the obligation of other public agencies providing special education or related services to individuals with exceptional needs with DCFS's obligation to provide services under a separate statutory scheme. More specifically, Student confuses the obligation of a designated local educational

agency to consider a student's placement considering her educational needs with DCFS's obligation to provide necessary and appropriate placement in accordance with a student's medical, social or emotional problems. (*See, e.g., M.S. by and through R.H. v. Los Angeles Unified School District* (9th Cir. 2019) 913 F.3d 1119, 1136 [school district required to consider whether a residential placement should have been offered to student for educational purposes as part of her individualized education program, notwithstanding that another agency, DCFS, had residentially placed student for mental health treatment under state law and pursuant to a Juvenile Court order.]) Student cites to no authority suggesting DCFS's obligation to provide permanent placement services for a student for non-educational reasons confers upon it the responsibility to offer a student a free appropriate public education.

Student also equates DCFS with other public agencies who are designated as responsible parties to provide special education or related services to students. (Ed. Code, §§ 56500 and 56028.5.) For example, Student relies on authority referencing the obligation of California Children's Services to provide medically necessary occupational therapy and physical therapy by reason of a medical diagnosis and when contained in the child's individualized education program. (Gov. Code, § 7575, subd. (a)(1).) Student cites to no statute or case authority that imposes an obligation on DCFS to provide special education and related services to a student or involve DCFS in any decisions regarding a student's educational program.

## ORDER

Student has not established the November 9, 2020 Order dismissing DCFS should be reconsidered. Accordingly, Student's Request for Reconsideration of the November 9, 2020 Order is denied. All dates are confirmed. This matter shall proceed as currently scheduled as to Paramount Unified School District, Pasadena Unified School

District, Palmdale Unified School District, Los Angeles County Office of Education and Long Beach Unified School District.

IT IS SO ORDERED.

*Jennifer Kelly*

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings