BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. GRAVENSTEIN UNION SCHOOL DISTRICT.	OAH CASE NO. 2013060983 ORDER GRANTING THE DISTRICT'S REQUEST FOR RECONSIDERATION OF ISSUES DEEMED PART OF STUDENT'S AMENDED COMPLAINT

On August 8, 2013, the undersigned administrative law judge issued an order which, in part, determined Student's amended complaint consisted of the two issues contained in Student's filing dated July 22, 2013, and the child find issue contained in Student's July 25, 2013 filing. On August 9, 2013, the District filed this Request for Reconsideration, indicating that this ALJ overlooked Student's correspondence to OAH dated July 22, 2013, which indicates Student withdrew her July 22, 2013 amended complaint, and intended to submit a more lucid amended complaint at a later date. On July 25, 2013, Student filed an amended complaint which contained only the child find issue. Student has not filed a response or opposition to the District's Request for Reconsideration.

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 AND ORDER

The District has provided a copy of Student's July 22, 2013 correspondence in which she requests to withdraw her July 22, 2013 amended complaint. Although the correspondence is clearly addressed to OAH, it does not appear in OAH records or the docket for this matter. As it was not received by OAH, it was not an overlooked document for purposes of this ALJ's original order, nor was the letter submitted on reconsideration pursuant to declaration. In this matter, however, these technicalities represent form over substance. The authenticity of the purported document is not questioned, and its contents present a logical explanation for the submission of the July 25, 2013 child find issue.

Further, Student's Advocate has not opposed this reconsideration or indicated that the purported July 22, 2013 correspondence is somehow fraudulent. Therefore, the District's request for reconsideration of the August 8, 2013 Order is granted, in part as it pertains to the determination of issues in Student's amended complaint.

Accordingly, the District's request for reconsideration is granted as follows:

1. The issues contained in Student's amended complaint filed July 22 2013, are dismissed without prejudice. Student's amended complaint subsequently filed on July 25, 2013, containing the sole issue of "child find" remains as Student's amended complaint for due process hearing.

2. Student's request for due process hearing on this matter shall proceed pursuant to timeline and hearing dates as currently scheduled.

3. All other orders contained in the August 8, 2013 Order remain in full force and effect.

IT IS SO ORDERED.

Dated: August 16, 2013

/s/
JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings