BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ANTIOCH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020020567

ORDER DENYING MOTION FOR RECONSIDERATION

MARCH 25, 2020

On March 12, 2020, the undersigned Administrative Law Judge issued an order granting Antioch Unified School District's motion to dismiss, on the grounds that Antioch was not a proper party to the action. Additionally, Student raised one issue that was not within the jurisdiction of the Office of Administrative Hearings, referred to as OAH. On March 23, 2020, Student filed a motion for reconsideration. On March 25, 2020, OAH received an opposition to Student's motion from Antioch.

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

Student offers no new facts, circumstances or law to support reconsideration. Instead, Student cites to legal authority previously raised by Student and Antioch and argues that the ALJ misinterpreted the law. Student requests that "the ALJ review the applicable law . . .." The undersigned ALJ reviewed all the law cited by Student and Antioch.

Student is correct that there is significant legal authority supporting the argument that pupils attending private schools are entitled to an offer of a free appropriate public education from their school district of residence. This legal authority does not support Student's position. Student is not enrolled in a private school. Student is enrolled in a public charter school, which has offered him an IEP. Student's reliance on 34 C.F.R. §§ 300.130 and 300.36 does not change the analysis, because 34 C.F.R. § 300.130 only applies to private schools.

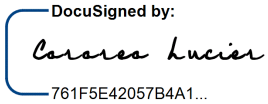
Importantly, Student does not bring any legal authority to support the notion that a student enrolled in a California charter school is entitled to an offer of a free appropriate public education from his district of residence. No such legal authority exists.

Finally, Student's motion for reconsideration is not timely, as it was not filed within ten days of the Order granting Antioch's motion to dismiss.

ORDER

Student has not established the March 12, 2020, Order should be reconsidered. The motion for reconsideration is denied.

IT IS SO ORDERED.



Cararea Lucier

Administrative Law Judge

Office of Administrative Hearings