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 No. 2017050795 ORDER DENYING REQUEST FOR RECONSIDERATION

On June 26, 2017, the undersigned Administrative Law Judge issued an order that denied Antioch Unified School District's motion to dismiss claims that predate May 16, 2015, based upon the two-year statute of limitations, and issues that arose prior to July 14, 2015, on the grounds that applicable law does not recognize continuing violations. On June 26, 2017, District filed a request for reconsideration. No opposition was received from Parent on behalf of 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. (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

District alleges that reconsideration should be granted because its reply brief was submitted to the Office of Administrative Hearings on June 26, 2017, after OAH denied the motion to dismiss.

However, District's reply brief offers no new facts, circumstances, or law in support of the request for reconsideration.

Student's complaint alleges two issues against District, including that District failed to implement Student's individualized education program services. Student argues that an

exception to the applicable two-year statute of limitations exists because District withheld information regarding that violation from Parents.

Similar to its motion to dismiss, District's reply asserts that Student should not be permitted to litigate claims that arose prior to May 16, 2015, based upon the two-year statute of limitations. District also asserts that claims that predate a July 14, 2015 IEP, should be dismissed because applicable law does not recognize continuing violations. The reply elaborates the factual merits of District's motion.

District overlooks that Student has raised a factual dispute regarding whether an exception to the two-year statute of limitations exists in this case. That question requires a hearing. Moreover, District improperly seeks a ruling on the merits regarding educational claims that arose during the statute of limitations, from May 16, 2015, to July 14, 2015. Student's claims fall squarely within OAH's jurisdiction and require an evidentiary hearing. Accordingly, District's request for reconsideration is denied.

ORDER

1. District's request for reconsideration is denied.

2. All hearing dates shall proceed as scheduled.

DATE: June 30, 2017

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Peter Paul Castillo for
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings