BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. WEST COVINA UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013090110 ORDER DENYING REQUEST FOR RECONSIDERATION

On September 3, 2013, Student filed a due process complaint (Complaint) against West Covina Unified School District (District) and California Virtual Academies (CAVA). On December 27, 2013, CAVA filed a motion to dismiss the Complaint. On January 2, 2014, Student filed an opposition to CAVA's motion to dismiss. On January 6, 2014, OAH granted CAVA's motion to dismiss. On January 7, 2014, District filed a motion to dismiss. Student filed a written response to District's motion to dismiss, and the parties argued the matter during a prehearing conference on January 10, 2014. On January 15, 2014, OAH granted District's motion to dismiss and the case was closed. On January 17, 2014, Student filed a request for reconsideration as to the order granting CAVA's dismissal, and included arguments for reconsideration as to the order granting District's dismissal (Motion). The Motion is treated as a motion for reconsideration of the orders dismissing CAVA and District.

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 Motion was timely filed. However, Student alleges no new facts, circumstances, or law in support of the request reconsideration. All of the evidence and arguments made in the Motion had been considered by OAH in its two orders dismissing CAVA and District.

Student's citation to the Code of Federal Regulations to support the argument that neither CAVA, nor District, followed the timeframe and notice requirement under the Code

of Federal Regulations, does not justify reconsideration. The procedures listed in the Code of Federal Regulations do not apply to cases filed with OAH, which is a state agency.

Although Student asserts that the September 28, 2011 settlement agreement did not release CAVA from the provision of a free and appropriate public education (FAPE) after December 22, 2011, the fact remains that Student had been dis-enrolled from CAVA by December 22, 2011 and Student did not provide any facts supporting OAH's jurisdiction over CAVA after that date. Further, OAH has no jurisdiction to order CAVA or District to provide a FAPE to Student when OAH has no facts supporting that Student had been a resident of District and had been enrolled in CAVA, or in a District school, after December 22, 2011. Student's contentions of fraud by CAVA and District are also not within OAH's jurisdiction.

Accordingly, Student's request for reconsideration is denied and no further action will be taken. The matter remains closed.

IT IS SO ORDERED.

Dated: January 22, 2014

/s/
SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings