BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANAHEIM ELEMENTARY SCHOOL DISTRICT.	OAH Case No. 2018090697 ORDER DENYING REQUEST FOR RECONSIDERATION

On November 16, 2018, the undersigned administrative law judge issued an order denying: (1) Student's motion to compel Anaheim Elementary School District to produce Student's pupil records; and (2) Student's motion to continue the hearing of this matter scheduled to start on December 11, 2018 because Anaheim's alleged failure to produce Student's pupil records prevented Parent from preparing for hearing.

The ALJ denied Student's motions because Student's moving papers did not satisfy the following requirements applicable to all such motions filed with OAH, by any party:

1. The moving papers were not served on Anaheim's counsel of record in this matter, who had filed and served a notice of representation agreeing to accept service of all pleadings in this matter at a physical address, email address, or facsimile number provided in the notice of representation.

2. The moving papers were not accompanied by a declaration of Parent or another person, sworn under penalty of perjury, offering evidence or documents that the ALJ could consider to decide whether Student's motions should be granted.

3. The moving papers did not include any declaration stating whether Parent tried to contact Anaheim's attorneys to discuss a continuance, whether Anaheim refused to agree to a continuance, or that the parties could not agree on dates.

4. The moving papers did not propose any new dates for the hearing.

The November 16, 2018 order denying Student's motions to compel Anaheim to produce Student's pupil records, and to continue the hearing of this matter, stated that it was without prejudice to Student filing future motions that complied with the above requirements. The order directed the parties to OAH's Special Education Handbook, available online at https://www.documents.dgs.ca.gov/oah/SE/Handbook.4.5.18.pdf, or at http://www.dgs.ca.gov/oah/SpecialEducation.aspx , which describes at pages 41-46 the requirements for a motion seeking an order from OAH.

On November 26, 2018, Student filed a Motion for Judicial Review and to Set Aside Judgment of OAH dated November 16, 2018, timely seeking reconsideration of OAH's November 16, 2018 order. Student's moving papers were not served on Anaheim's counsel of record, and did not include any supporting declarations.

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.)

Here, Student's motion for reconsideration must be denied because it was not served on Anaheim's counsel of record, and did not include any supporting declarations providing evidence that the ALJ may consider in ruling on Student's motions to compel production of pupil records, and to continue the hearing in this matter. Additionally, the moving papers did not reference any new or different facts, circumstances, or law justifying reconsideration that Student could not have provided previously.

ORDER

Student's motion for reconsideration is denied. This denial is without prejudice to filing motions that comply with the requirements stated above.

IT IS SO ORDERED.

DATE: November 26, 2018

DocuSigned by:

ROBERT G. MARTIN
Administrative Law Judge
Office of Administrative Hearings