BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020120240

ORDER DENYING REQUEST FOR RECONSIDERATION

APRIL 05, 2023

On March 17, 2023, the undersigned Administrative Law Judge issued an order denying Student's motion to amend a complaint in a case that was dismissed by OAH in August 2021. On April 4, 2023, Student's attorney filed a motion 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, 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's attorney offers no new facts, circumstances or relevant law to support reconsideration. This case was dismissed and closed due to Student Attorney's "protracted pattern of delay and refusal to comply with OAH orders…" Further, the dismissal order stated that "Student counsel's failure to timely prosecute this matter is contrary to the intent of the IDEA and Education Code. Further, the intent of the IDEA and the Education Code that a due process hearing be held expeditiously is consistent with the general policy of this state that plaintiffs prosecute actions with reasonable diligence. (Code Civ. Proc., § 583.130.) Civil actions may be dismissed for delay in prosecution. (Code Civ. Proc., § 583.410, subd. (a)). Dismissal is warranted here, as Student's counsel has failed to diligently proceed with the complaint. Accordingly, this matter is dismissed for failure of Student's counsel to prosecute the complaint with reasonable diligence."

This case was dismissed and closed in August 2021. Student attorney's initial request to re-open the case was denied because OAH lost jurisdiction on the case when it was properly dismissed and closed. Had Student appealed the order dismissing the case, was successful in overturning the dismissal order, and the appeals court ordered the case remanded and re-opened, then OAH would have jurisdiction to re-open this matter. Without a remand, the case remains closed.

Student has provided no new facts, circumstances or law that addresses the issue of re-opening a case that was dismissed for failure to prosecute caused by the direct actions and inaction by Student's counsel.

ORDER

Student has not established the March 17, 2023 Order should be reconsidered. The motion for reconsideration is denied. The matter remains closed.

IT IS SO ORDERED.

Margaret Gibson

Margaret Gibson

Presiding Administrative Law Judge

Office of Administrative Hearings