BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

NEWMAN-CROWS LANDING UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022040545

ORDER DENYING STUDENT'S REQUEST FOR RECONSIDERATION

AUGUST 19, 2022

On August 15, 2022, the undersigned Administrative Law Judge issued an order denying Dr. Sunny Kim's motion to quash. Dr. Kim moved to quash the subpoena duces tecum issued by Newman-Crows Landing Unified School District. Dr. Kim believed that compliance with the subpoena duces tecum would violate Health Insurance Portability and Accountability Act (HIPPA) and Family Educational Rights and Privacy Act (FERPA) laws. Dr. Kim's motion to quash was denied, among other reasons, because the records requested did not violate HIPPA or FERPA laws.

On August 17, 2022, Student filed a Request for Reconsideration of Dr. Sunny Kim's Motion to Quash. On August 17, 2022, Newman-Crows Landing filed an opposition.

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. Student argues that Newman-Crows Landing sought to obtain records prior to the due process hearing despite there being no discovery. Student alleges that some of the documents requested by the subpoena duces tecum are for documents and correspondence that are not relevant to the claims at issue. Student speculated that Newman-Crows Landing may use the documents for an improper purpose.

Student's contentions do not meet the threshold for reconsideration. Accordingly, Student's request to reconsider the Order Denying Motion to Quash is denied.

For clarification, the Order requires the custodian of records for Dr. Sunny Kim, Sunny's Behavior Services, to upload the documents to the electronic evidence program

on August 30, 2022. According to page 3 of OAH's "Subpoena to Produce Records or Other Things Under Oath with or Without Testimony", the responding party is instructed to upload the subpoenaed documents at least five business days before the day the documents are required. OAH's "Instructions for Responding to an OAH Subpoena" informs the responding party "[d]o not send the requested documents to the person who requested them." As a result, pursuant to OAH's procedure for producing documents pursuant to a subpoena duces tecum, Newman-Crows Landing will not receive the requested documents before the hearing. For additional clarification, the Order specifically states that the ALJ presiding may conduct an in camera review of the documents to ensure they are relevant to the claims being adjudicated prior to disclosing them to the parties' legal representatives.

ORDER

Student has not established the August 15, 2022, Order Denying Motion to Quash Subpoena should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings