

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HEMET UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015010324

ORDER GRANTING REQUEST TO
RECONSIDER DISTRICT'S MOTION
TO DISMISS OR NOTICE OF
INSUFFICIENCY

On January 7, 2015, Parent on behalf of Student filed a Due Process Hearing Request (Student's case). Office of Administrative Hearings designated the case as number 2015010324. On January 7, 2015, Parent also filed a Due Process Hearing Request on behalf of Student's sibling (sibling's case). OAH designated the sibling's case as number 2015010326.

On January 14, 2015, OAH issued an Order determining the complaint in Student's case to be insufficient in part, and allowing Student to file an amended complaint that would restart the applicable timelines.

On January 26, 2015, Parent filed a single document containing (1) a request to dismiss sibling's case; and (2) an amended complaint in Student's case. OAH filed this entire document in Student's case file, treated the document as a dismissal of Student's case, and it closed case number 2015010324.

On January 30, 2015, District made a Motion to Dismiss or in the Alternative Notice of Insufficiency in Student's case number 2015010324. District's Motion pertained to the portion of Parent's January 26 filing that contained an amended complaint. On February 2, 2015, the undersigned administrative law judge issued an order holding that District's Motion was moot, because OAH had already dismissed and closed Student's case.

On February 4, 2015, District moved for reconsideration, clarifying that Parent's January 26 filing had contained an amended Student's complaint, and that was the document to which District's motion had pertained. District therefore moved for reconsideration of the February 2, 2015 Order.

Because Parent did not intend to dismiss Student's case, it has been reopened and the dismissal document has been removed from Student's case and re-filed into sibling's case. Reconsideration is therefore granted, because District's Motion to Dismiss or in the Alternative Notice of Insufficiency is not moot. District's Motion to Dismiss or in the Alternative Notice of Insufficiency pertains to Student's amended complaint filed on January 26, 2015. OAH will reconsider the merits of District's Motion to Dismiss or Notice of

Insufficiency regarding Student's amended complaint. That disposition will be issued under a separate order, providing Student three business days to respond to District's Motion prior to OAH ruling on the matter.

APPLICABLE LAW

OAH 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

Reconsideration is granted. District's Motion to Dismiss and Notice of Insufficiency is not moot. OAH will reconsider the merits of District's Motion to Dismiss or Notice of Insufficiency regarding Student's amended complaint. That disposition will be issued under a separate order, providing Student three business days to respond to District's Motion prior to OAH ruling on the matter.

DATE: February 6, 2015

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings