

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WESTMINSTER SCHOOL DISTRICT.

OAH CASE NO. 2014100057

ORDER DENYING REQUEST FOR
RECONSIDERATION

On December 17, 2014, a telephonic status conference was held before Presiding Administrative Law Judge Peter Paul Castillo, Office of Administrative Hearings. Mother appeared on behalf of Student. Nancy Finch-Heuerman, representative for Westminster School District, appeared on behalf of District. A Spanish language interpreter was provided to Mother.

At the telephonic status conference, Mother stated that she no longer agrees with the settlement agreement that she signed, and which the District adopted, and therefore she would not be submitting a letter to dismiss this matter.

At the conclusion of the telephonic status conference, OAH issued an order that if District wished to have this matter dismissed because of the settlement agreement, it needed file a motion to dismiss by 5:00 p.m., on January 5, 2015. Student would have three days after receipt of the Spanish language translation of District's motion to file a response with OAH.

District filed its motion to dismiss on December 22, 2014. A Spanish translation was provided to Parent on December 29, 2014, and Student responded on January 9, 2014. On January 15, 2015, the undersigned administrative law judge issued an order that dismissed Student's complaint because the parties had entered into a binding settlement agreement that resolved this matter. On January 28, 2015, Student filed a request for reconsideration that sought again to set aside the settlement agreement and to let this matter proceed to hearing. District did not submit a response.

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

Student alleges no new facts, circumstances, or law in support of the request reconsideration as Parent signed a Settlement Agreement on October 29, 2014, subject to approval by District's board, which occurred on November 13, 2014. OAH lacks the legal authority to set aside a settlement agreement. Pursuant to *Wyner v. Manhattan Beach Unified School District* (9th Cir. 2000) 223 F.3d 1026, OAH does not have jurisdiction to enforce provisions of a final decision, which would include a settlement agreement. (See, Ed. Code, § 56501, subd. (a).) A party's remedy to enforce the terms of a settlement agreement is either to file a compliance complaint with the Superintendent of Public Instruction or institute a court action. (See, *Porter v. Manhattan Beach Unified School District* (9th Cir. 2000) 307 F.3d 1064.) Accordingly, Student's request for reconsideration is DENIED.

IT IS SO ORDERED.

DATE: February 17, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings