

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015100314

ORDER DENYING REQUEST FOR
RECONSIDERATION

On October 21, 2015, the undersigned administrative law judge issued an order denying Student's Request to Dismiss his own Request for Due Process Hearing, finding that doing so would require factual determinations resulting in summary judgment. Special education law does not provide for summary judgment motions. On November 2, 2015, Student filed a Request for Reconsideration of the October 21, 2015 order. District has not filed a response or opposition to Student's request.

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.)

DISCUSSION AND ORDER

Student alleges no new facts, circumstances, or law in support of the request reconsideration. Student has attached a copy of the purported settlement agreement, and a declaration from Mother, which were not presented as part of Student's initial Request for Dismissal. While these documents may support a finding of a settlement agreement at time of hearing, OAH cannot make factual determinations which result in a summary judgment. Further, these documents do not represent new information, as the purported settlement

agreements, as well as Mother's information were clearly available to Student prior to filing the request for dismissal.¹

Accordingly, Student's request for reconsideration is denied.

IT IS SO ORDERED.

DATE: November 09, 2015

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings

¹ While the ALJ understands Student's desire to exhaust administrative remedies, OAH cannot make factual findings on the merits of the case prior to hearing. Student, on the other hand, may withdraw his complaint without prejudice, and seek a determination of exhaustion of administrative remedies through a court of competent jurisdiction.