

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN LEANDRO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2019030365

ORDER DENYING REQUEST FOR
RECONSIDERATION

On March 4, 2019, the undersigned administrative law judge issued an order that dismissed Student's complaint without prejudice, as Student was over age 18, and was not the named party in the complaint. Mother filed the complaint on behalf of Student but did not provide an assignment of educational rights or document conservatorship of Student. On April 8, 2019, Mother on behalf of Student filed a motion for reconsideration on behalf of Student. On April 8, 2019, San Leandro Unified School District filed an opposition to the motion.

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

Parent on behalf of Student alleges no new facts, circumstances, or law in support of the request reconsideration. Specifically, Mother states Student does not wish to assign her educational rights. Additionally, the reconsideration motion contains a request to amend the complaint which is beyond the scope of the reconsideration. Student may simply file a new complaint naming proper parties, alleging related factual claims, and providing appropriate legal support for her contentions.

Further, San Leandro objected to the filing of the motion for reconsideration as untimely. The motion for reconsideration was filed on April 8, 2019, over one month after OAH issued the Order re Dismissal on March 4, 2019. It is not timely as it was not received within ten days after issuance of the order. Although counsel provided explanation for the delay in filing, the issue of timeliness is moot, as the motion for reconsideration contains no allegations of new facts, law or circumstances, as described above.

Accordingly, Parent on behalf of Student's request for reconsideration is denied.

ORDER

Motion for Reconsideration is denied.

IT IS SO ORDERED.

DATE: April 9, 2019

DocuSigned by:
Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings