

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT AND SAN DIEGO  
COUNTY OFFICE OF EDUCATION  
OAH CASE NUMBER 2021050037

ORDER DENYING REQUEST FOR RECONSIDERATION

AUGUST 5, 2021

On April 29, 2021, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming multiple parties, including the San Diego County Office of Education. On May 20, 2021, San Diego County filed a Motion to Dismiss itself as a party to the case. On June 2, 2021, OAH denied San Diego County's motion as moot because on June 1, 2021, Student filed an amended complaint. In the Order, OAH granted San Diego County the option to refile its Motion to Dismiss as to the amended complaint.

On June 10, 2021, San Diego County filed a Notice of Insufficiency and Motion to Dismiss itself as a party to the amended complaint. On June 14, 2021, OAH determined

the amended complaint was insufficiently pled as to San Diego County and denied the Motion to Dismiss without prejudice. On June 18, 2021, Student filed a second amended complaint naming San Diego County as one of the respondents. On June 22, 2021, San Diego County filed a Motion to Dismiss itself as a party to the second amended complaint.

On July 1, 2021, the undersigned Administrative Law Judge issued an Order Denying San Diego County's Motion to Dismiss. On July 6, 2021, the undersigned Administrative Law Judge determined the second amended complaint was sufficiently pled as to San Diego County. On July 29, 2021, San Diego County filed an Application for Renewal, which OAH will treat as a Motion for Reconsideration of the July 1, 2021 Order. On July 30, 2021, San Diego County filed a corrected Application for Renewal. On August 2, 2021, Student filed an opposition to the Application for Renewal.

San Diego County seeks to renew its May 19, 2021 Motion to Dismiss on the grounds that newly discovered information proves San Diego County has never provided special education or related services to Student and has never been involved in any decisions regarding Student's educational program. The newly discovered information was a declaration from a San Diego County mental health case manager stating that a review of San Diego County's database revealed no referrals have been made for Student and that the case manager has never been involved in Student's placement or services. San Diego County's attorney signed the declaration on behalf of the case manager.

Student argues San Diego County's Application for Renewal should be denied because it is untimely and fails to state any new or different facts, circumstances, or law to warrant reconsideration.

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, 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.)

San Diego County filed its Application for Renewal nearly 30 days after OAH's July 1, 2021 Order Denying San Diego County's Motion to Dismiss, which is not within a reasonable time period. Additionally, San Diego County failed to offer any new facts, circumstances, or law that changes OAH's ruling that "child find" is within OAH's jurisdiction and that whether San Diego County was involved in any decisions regarding Student's educational program requires a finding of fact at an evidentiary hearing. Therefore, the motion to reconsider OAH's July 1, 2021 Order is denied.

IT IS SO ORDERED.

*Tara Doss*

Tara Doss  
Administrative Law Judge  
Office of Administrative Hearings