

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

and

ELITE ACADEMIC ACADEMY,

OAH CASE NUMBER 2021060761

OAH CASE NUMBER 2021060366

ORDER DENYING REQUEST FOR RECONSIDERATION

AUGUST 3, 2021

On July 30, 2021, the undersigned Administrative Law Judge issued an order granting Student's motion to amend complaint. On August 2, 2021, Elite Academic Academy filed a motion for reconsideration. On August 3, 2021, Student filed an opposition.

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, 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.)

DISCUSSION

Elite's motion is based upon OAH granting Student's motion to amend on July 30, 2021, when Elite received the motion at 5:11 pm on July 28, 2021. Elite points out that OAH requires a party that disagrees with a motion to respond in writing within three business days. However, Elite failed to establish that, even if OAH had waited longer to receive its opposition brief, OAH should deny Student's motion to amend.

Here, Student filed a motion to amend and first amended complaint more than five days before the due process hearing. Student's amended complaint included new issues, which requires restarting the resolution process. Student's amended complaint was filed after Student retained legal counsel, and little over a month after the filing of the initial complaint, thereby not causing undue delay in a resolution of this case. In sum, Student exercised his statutory right to amend his complaint in a timely manner and OAH properly granted the motion. (20 U.S.C. §1415(c)(2)(E)(i).) Elite's motion fails to show new facts, circumstances, or law that supports reconsideration of OAH's Order.

ORDER

Elite Academic Academy has not established that OAH's July 30, 2021 Order Granting Motion to Amend should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.


Paul H. Kamoroff (Aug 3, 2021 13:20 PDT)

Paul H Kamoroff

Administrative Law Judge

Office of Administrative Hearings