

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

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

ORDER DENYING RECONSIDERATION

OCTOBER 13, 2021

On April 29, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, which named San Dieguito Union High School District, North Coastal Consortium for Special Education, referred to as North Coastal Consortium, and San Diego County Office of Education, called SDCOE. On May 17, 2021, OAH determined the complaint was insufficient. Student filed an amended complaint on June 1, 2021, naming the same parties. On June 9, 2021, OAH determined Student's amended complaint was insufficiently pled as to North Coastal Consortium and dismissed Issues One and Two as to North Coastal Consortium without further leave to amend as to that respondent.

On June 14, 2021, OAH determined Student's amended complaint was insufficiently pled as to San Diego County Office of Education and allowed Student 14 days to amend the complaint. On June 18, 2021, Student filed a second amended complaint and named North Coastal Consortium, notwithstanding OAH's June 9, 2021 Order Dismissing Issues One and Two as to North Coastal Consortium.

On June 23, 2021, North Coastal Consortium filed an opposition to Student's second amended complaint and a Motion to Dismiss itself as a party. On June 28, 2021, Student filed a response to North Coastal Consortium's opposition and motion to dismiss. On July 2, 2021, OAH issued an Order Dismissing North Coastal Consortium as a Party.

On October 12, 2021, Student filed a Motion for Reconsideration seeking a reconsideration of OAH's order dismissing Northern Coastal Consortium. Student included a declaration by Student's attorney. Student's motion asserts that based on recent settlement negotiations and discussions between counsel, the matter cannot settle unless Northern Coastal Consortium is a party to this matter.

On October 12, 2021, SDCOE filed a "Motion for Joinder of Indispensable Party Pursuant to Code of Civil Procedure § 389(a)." SDCOE's motion sought an order joining the North Coastal Consortium as a necessary party. SDCOE claimed that any relief sought by Student would be unduly disproportionate to any obligation that SDCOE owes to Student. SDCOE claimed in the alternative that OAH should dismiss SDCOE if it declines to join North Coastal Consortium. SDCOE's motion is considered in a separate order.

The Office of Administrative Hearings will generally reconsider a previous 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.)

Here, Student's motion was filed more than three months after OAH issued its most recent order dismissing Northern Coastal Consortium, rendering the motion untimely. Nevertheless, Student's counsel asserts that a change of circumstances occurred necessitating reconsideration. Student asserts the remaining parties mediated the dispute on September 13, 2021. Student's attorney thereafter conferred with Northern Coastal Consortium's attorney. Student's attorney ascertained that Northern Coastal Consortium was the funding agency for respondent San Diego County Office of Education. Student's attorney concluded that settlement could not be achieved unless Northern Coastal Consortium was a party to this action. Student's motion is based on the allegation that Northern Coastal Consortium "stands in CDE's stead" as the "agency that controls the funds for any expenditures in determining and providing services."

However, Student's counsel did not address the jurisdictional issues that resulted in Northern Coastal Consortium's earlier dismissal from the action. Student's complaint does not allege that Northern Coastal Consortium made, or has the authority to make, any educational decisions under the Individuals with Disabilities Education Act, or regarding Student's eligibility or individualized education plan. OAH's jurisdiction is limited to educationally related claims arising under the IDEA. Simply asserting that a "symbiotic" economic relationship exists between Northern Coastal Consortium and San Diego County Office of Education is not enough to confer jurisdiction over, or warrant reconsideration of the Order dismissing, Northern Coastal Consortium. OAH's Order

dismissing Northern Coastal Consortium was based upon a complaint that failed to allege any facts that gave OAH jurisdiction over Northern Coastal Consortium. Nothing has changed.

Notably, SDCOE's concurrent motion asserts that Northern Coastal Consortium is a necessary party for the sole reason that the consortium funds obligations by SDCOE. No one has alleged, in their motions, or in the complaint, that Northern Coastal Consortium has the authority to, did, or failed to make any educationally related decisions regarding Student under the IDEA, including child find, such that OAH would have jurisdiction over Northern Coastal Consortium as to the claims in the complaint.

Student has not established that circumstances have changed, alleged new facts or law, or otherwise timely established that OAH has jurisdiction over Northern Coastal Consortium based on the claims alleged in Student's Second Amended Complaint such that reconsideration should be granted. Nothing in this Order precludes any party to this matter from seeking appropriate recourse from Northern Coastal Consortium in the appropriate tribunal under the appropriate legal authority.

The motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Adrienne L. Krikorian

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Administrative Law Judge

Office of Administrative Hearings