

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.
OAH CASE NUMBER 2023090702

ORDER DENYING REQUEST FOR RECONSIDERATION

JANUARY 23, 2024

On December 28, 2023, Student filed with the Office of Administrative Hearings, called OAH, and served San Diego Unified with a motion to amend the complaint and an amended complaint. The undersigned Administrative Law Judge issued an order granting Student's motion to amend the complaint, made orally during the December 29, 2023, prehearing conference. The amended complaint was deemed filed on the date of the order. The parties' attorneys were present at the prehearing conference, and San Diego Unified did not object to the motion to amend the complaint.

A written order was issued following the December 29, 2023, prehearing conference, entitled Order Following Prehearing Conference Granting Motion to Amend Complaint. The written order was dated December 29, 2023.

On January 16, 2024, San Diego Unified filed a Notice of Insufficiency as to the amended complaint. On January 17, 2024, OAH issued an Order Determining Amended Due Process Complaint Sufficient. OAH determined the amended complaint sufficient because the Notice of Insufficiency was not filed within 15 days from the time the amended complaint was deemed filed.

On January 19, 2024, San Diego Unified filed a Motion for Reconsideration of Order Determining Petitioner's Amended Due Process Complaint Sufficient. San Diego Unified filed seven exhibits in support of the motion for reconsideration but did not include the Order Following Prehearing Conference Granting Motion to Amend Complaint dated December 29, 2023. OAH did not receive a response from Student.

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 10 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 Unified offers no new facts, circumstances, or law to support reconsideration. The order granting Student's motion to amend the complaint was made orally at the December 29, 2023, prehearing conference, followed by a written Order Following Prehearing Conference Granting Motion to Amend Complaint dated December 29, 2023. The date of the order granting the motion to amend the complaint and the date the amended complaint was deemed filed was December 29, 2023, not January 2, 2024, as San Diego Unified erroneously claims. San Diego Unified had 15 days from December 29, 2023, to file a Notice of Insufficiency. (20 U.S.C. § 1415(c)(2)(C);

Ed. Code, § 56502, subd. (d)(1).) San Diego Unified's Notice of Insufficiency was not filed with OAH and served on Student until January 16, 2024, more than 15 days from December 29, 2023, and therefore, the notice was untimely.

In addition, San Diego Unified's contention that weekends and a holiday do not apply when calculating the 15 days to file a Notice of Insufficiency is unpersuasive. San Diego Unified offered no authority that the 15 days to timely file a Notice of Insufficiency does not include weekends and holidays.

Accordingly, San Diego Unified's motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings