BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

NEWMAN-CROWS LANDING UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020120626

ORDER DENYING REQUEST FOR RECONSIDERATION AND GRANTING REQUEST FOR CLARIFICATION

FEBRUARY 11, 2021

On December 17, 2020, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Newman-Crows Unified School District, called Newman-Crows. On December 28, 2020, Newman-Crows filed a notice of insufficiency as to Student's complaint. On December 29, 2020, OAH found Student's complaint sufficient as to issue one, and insufficient as to issues two, three, four, five, and six.

On January 13, 2021, Student filed a first amended complaint. On January 21, 2021, Newman-Crows file a notice of insufficiency as to issues one, two, three, four, five, and six, of Student's first amended complaint. On February 1, 2021, the undersigned

administrative law judge issued an order determining Student's first amended complaint sufficient. On February 4, 2021, Newman-Crows filed a motion for reconsideration of the undersigned's sufficiency determination maintaining that no changes were made to Student's issue three and five of Student's complaint and first amended complaint, thus these two issues continue to be insufficient based upon the December 30, 2020 order. Additionally, Newman-Crows contended that Student's issue one, two, four, and six of Student's first amended complaint had no material changes made and did not address the insufficiency of the December 30, 2020 order. Thus, Newman-Crows argues that this resulted in a material mistake of law and fact due to inconsistent decisions regarding whether identical issues are insufficient or sufficient.

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

Newman-Crows offers no new facts, circumstances or law to support reconsideration. Accordingly, Newman-Crows motion for reconsideration is denied. The undersigned administrative law judge, however, also interprets Newman-Crows request as a motion to clarification of the February 1, 2021 order, which is granted.

The undersigned administrative law judge looked at the first amended complaint in its entirety in determining its sufficiency. On December 29, 2020, an administrative law judge found Student's issue one in his complaint sufficient. As to issues two through six, the administrative law judge did not set forth specific reasons as to each issues insufficiency. Rather, the administrative law judge found issues two through six insufficient under two bases.

First, the administrative law judge found 12 of Student's 13 allegations in his Statute of Limitations section of the complaint unclear because the allegations were undated and therefore vague as to when they occurred. In Student's first amended complaint, he inserted specific school years and timeframes for the 12 allegations alleged in the Statute of Limitations section and added additional allegations in this section that also contained sufficient timeframes. Thus, Student remedied the unclear timeframes in the Statute of Limitations section as described in the December 29, 2020 order.

Second, the administrative law judge found Student's complaint insufficient because none of the 13 allegations of alleged willful and/or negligent misrepresentations or withholding of information in the Statute of Limitations section of Student's complaint was associated with any of the asserted legal issues. The administrative law judge explained in the December 29, 2020 order that issues two through six asserted facts sufficient as to the free and appropriate public education, called FAPE, allegations, but found that each issue did not allege any period of time, dates, individuals, or events associated with Student's assertion to make claims beyond the statute of limitations. Thus, the administrative law judge found issues two through six too vague and confusing as to Student's alleged waiver of the statute of limitations

time period because the complaint did not specify the dates of the statute of limitations allegations and the legal issues to which they apply.

Here, Student's first amended complaint remedied any ambiguities as to the statute of limitations claim by inserting specific school years as to each of the 12 allegations in the Statute of Limitations section. Further, Student added additional events, facts, and allegations with timeframes into the statute of limitations section, and also incorporated by reference the background and summary of facts sections into the statute of limitations section of Student's first amended complaint. As stated in the February 1, 2020 Order, Newman-Crows provided no authority to support the position that Student needed to duplicate its statute of limitations allegations again into each issue. The Statute of Limitations section of Student's first amended complaint gave Newman-Crows sufficient notice of the nature of his statute of limitations claim including how it related to the issues in this matter.

Additionally, the complaint was sufficient as to Student's FAPE allegations as determined by the December 30, 2020 Order. However, Student added additional facts to some of his issues in the first amended complaint and incorporated by reference the background and summary of facts into the legal issues. Thus, the undersigned administrative law judge determined that issues one through six were sufficient. Accordingly, Student's first amended complaint is sufficient. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings