BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. GILROY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018010953 ORDER DENYING MOTION FOR RECONSIDERATION

On March 14, 2018, the undersigned administrative law judge issued an order that denied K12, Inc.'s motion to be dismissed as a party in this matter, or in the alternative to bifurcate the issue of its standing; and denied K12's and Student's requests for cost shifting or sanctions. On May 16, 2018, K12 filed a motion for reconsideration of the March 14, 2018 order, and made a new motion for cost-shifting or sanctions against Student.

On May 17, 2018, the undersigned ALJ issued an order that granted reconsideration of the order of March 14, 2018, and granted the motion to dismiss on grounds that OAH lacks jurisdiction over K12 as it is not a public agency that is or was providing educational services to student. The ALJ denied the motion for cost shifting or sanctions. On May 18, 2018, Student filed an opposition to the K12 motion for reconsideration, with his own motion for reconsideration of the order of May 17, 2018.

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. (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

Student claims that OAH should not have ruled on K12's motion for reconsideration, because he was not given three business days to respond to the motion. While OAH generally permits parties three business days to respond to motions, there are two exceptions:

1) notices of insufficiency; and 2) motions for reconsideration. Therefore, no response to K12's motion was expected from Student.

Student also argues that OAH should not have granted K12's motion for reconsideration because it was untimely, and did not present new or different facts, circumstances or law. The ALJ determined that under the specific circumstances of this case, K12's motion was timely and did present new facts, circumstances or law. Therefore the motion for reconsideration was granted.

Upon reconsideration, the ALJ determined that K12 is a private for-profit corporation that provides curriculum and administrative services to charter schools. Its relationship to the charter schools it serves is akin to the relationship between a textbook publisher and a public school district; K12 is a vendor. Because K12 is not a public agency OAH lacks jurisdiction over it, and therefore K12 was dismissed.[1]

In and with his motion for reconsideration Student prevents no new facts, circumstances, or legal authority in support of its motion that would justify reconsideration. Therefore Student's motion for reconsideration of the order of May 17, 2018, is denied.

ORDER

Student's motion for reconsideration is **DENIED.**

IT IS SO ORDERED.

DATE: May 18, 2018

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

[1] On May 18, 2018, Student also filed a motion to amend his complaint, and a proposed amended complaint. Two additional parties have been added, the California Department of Education, and the El Dorado County Charter Special Education Local Plan Agency. K12 is also named as a party. OAH will not rule upon this motion until the named parties, with the exception of K12 which continues to be dismissed because OAH lacks jurisdiction over it, have had three business days to file responses.