BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT AND

POMONA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022030405

ORDER DENYING STUDENT'S REQUEST FOR RECONSIDERATION

APRIL 8, 2022

On March 29, 2022, the undersigned Administrative Law Judge issued an order dismissing Los Angeles County Department of Child and Family Services, referred to as DCFS, as a party. On April 4, 2022, Parent on behalf of Student filed a Student Request for Reconsideration of Order Dismissing DCFS as a Party. The Office of Administrative Hearings, called OAH, did not receive a response from DCFS.

APPLICABLE LAW

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 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

Student's request for reconsideration of the March 29, 2022 Order was filed within a reasonable time after the initial Order was issued. However, Student offers no new facts, circumstances or law. to support reconsideration. Here, under the supervision of the juvenile court, DCFS detained Student in a foster home located in Bellflower. The appropriateness of Student's non-educationally related detention and placement in Bellflower by DCFS through the juvenile court proceedings, with an unintended impact to Student's education, is outside OAH's jurisdiction.

In addition, special education due process hearings may involve the parent or guardian, a student, and "the public agency involved in any decisions regarding a pupil." (Ed. Code, § 56501, subd. (a).) A "public agency" is defined as "a school district, county office of education, special education local plan area, or any other public agency providing special education or related services to individuals with exceptional needs." (Ed. Code, §§ 56500 and 56028.5.) Student offers no new facts, circumstances or law establishing DCFS was a public agency that provided Student with special education or related services.

Furthermore, Student's assertion that DCFS had exclusive power over Student's education since December 7, 2021, and failed to facilitate assessments of Student by Pomona Unified School District is unpersuasive. Student offers no new facts, circumstances or law to establish that the juvenile court limited Parent's right to make educational decisions for Student. (Welf. & Inst. Code, § 361, subd. (a).) Rather, on February 2, 2022, the juvenile court ordered the foster parent to share educational rights over Student with Parent. Parent retained rights to make educational decisions for Student. OAH is not aware of any order from the juvenile court, or any other court, that limited Parent's ability to enroll Student in a school district near the foster home, or to request Student be assessed by Pomona Unified or another school district, and for a school district to implement Student's individualized education program. OAH is also not aware of a court order relieving a school district, such Pomona Unified or Long Beach Unified School District as alleged by Student, the responsibility of identifying, evaluating, or determining the appropriate educational placement of Student, or the provision of a free appropriate public education, called FAPE, to Student.

Student fails to allege new facts, circumstances or law to reconsider the March 29, 2022 Order's dismissing DCFS as a party in this matter based on the failure of Student to allege facts in the due process hearing request of how DCFS was involved in the decision-making process related to the identification, evaluation, or educational placement of Student or in providing Student a FAPE under the IDEA or California special education laws. Accordingly, Student's request for reconsideration of the March 29, 2022 Order is denied.

ORDER

Student has not established the March 29, 2022 Order should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings