BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CUPERTINO UNION SCHOOL DISTRICT,	OAH CASE NO. 2013040122
PARENT ON BEHALF OF STUDENT, v. CUPERTINO UNION SCHOOL DISTRICT.	OAH CASE NO. 2013030785 ORDER DENYING REQUEST FOR CLARIFICATION AND DENYING REQUEST FOR RECONSIDERATION

On July 15, 2013, the undersigned administrative law judge issued a final decision in the above captioned matters. On July 17, 2013, Student filed a motion titled "Motion for Corrections in the Decision." On July 22, 2013, the Cupertino Union School District (District) filed an opposition to Student's motion.

Student's motion raises three issues: (1) a request to change the prevailing party language in the decision from "Parent" to "Student;" (2) a determination that the order for remedies in the decision has conflicts and ambiguities and is inconsistent with the remedies outlined in the prehearing conference order; and (3) a determination that the remedies in the decision are not implementable. Student's first issue is treated as a motion for clarification regarding the language in the prevailing party section of the decision. Student's second and third issues are deemed a request for reconsideration of the remedies awarded in the decision.

APPLICABLE LAW

The Office of Administrative Hearings (OAH) will generally reconsider rulings on motions 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.) As discussed below, decisions are treated differently than rulings on motions.

The Administrative Procedure Act (APA) (Gov. Code §§ 11340 *et seq*.) is only applicable in part to special education hearings. (*Poway Unified School District* v. *Student* (May 24, 2010) OAH Case No 2009100310.) Prior case law instructs that administrative agencies generally lack the power to order reconsideration of their decisions (*Olive Proration etc. Com. v. Agri. etc. Com.* (1941) 17 Cal.2d 204, 209; *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407–408), absent specific statutory authority to do so. (*Bonnell v. Medical Bd. of California* (2003) 31 Cal.4th 1255, 1260.) Section 11521 of the APA authorizes a state agency to order reconsideration of its administrative adjudication, upon its or a party's application, as long as an order is issued within the time period for reconsideration applicable to the agency's decisions. The OAH decisions referred to by the APA are not final when issued but become effective after 30 days (absent other orders). (Gov. Code § 11519, subd. (a).)

In contrast, under the Individuals with Disabilities Education Act, OAH decisions rendered in special education due process proceedings are final upon issuance. Any party wishing to contest the findings and decision may seek review by bringing a civil action in state or federal district court, within 90 days from the date of the ALJ's decision. (20 U.S.C. § 1415(i); 34 C.F.R. §§ 300.514 and 300.516 (2006); Gov. Code § 56505, subd. (k).) APA provisions regarding reconsideration are therefore inapplicable to special education decisions. No federal or state special education statutes or regulations provide for reconsideration of a decision issued following a due process hearing.

DISCUSSION AND ORDER

Student seeks clarification regarding the ALJ's determination of prevailing party in these consolidated matters. The decision states that "Parent prevailed on issues one and three and the District prevailed on issue two." Student contends that the determination is ambiguous and that the word Student should be substituted for the word Parent in the sentence. The claims in these consolidated matters are entitled "Parents on behalf of Student." As the Parent is bringing the claims on behalf of the Student, the Parent is the party that prevailed, on behalf of the Student. Therefore, there is no ambiguity here. It is clear that the District did not prevail on issues one and three in the decision. The motion for clarification is denied.

As to Student's claims for reconsideration, there is no provision for reconsideration of a decision issued after a special education due process hearing. Therefore, Student's motion for reconsideration as described in issues two and three of his motion is denied.

Accordingly, Student's motions for clarification and reconsideration are denied.

Dated: July 24, 2013

/s/
MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings