BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ALAMITOS UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017050096 ORDER DENYING STUDENT'S (MOTHER'S) REQUEST FOR RECONSIDERATION, DENIAL OF STUDENT'S (FATHER'S) REQUEST TO CONTINUE MOTION, AND ORDER DENYING STUDENT'S (MOTHER'S) REQUEST TO AMEND COMPLAINT

On October 17, 2017, as amended and corrected on October 20, 2017, the undersigned administrative law judge issued a bifurcated decision on the issue of jurisdiction which found the Office of Administrative Hearings had no jurisdiction to determine the issues contained in Student's (Mother's) request for due process hearing (complaint) Pursuant to this decision, the ALJ dismissed Student's (Mother's) complaint with prejudice.

On October 30, 2017, Student (Mother) filed a motion for reconsideration, without points and authorities or declaration, requesting the ALJ reconsider the dismissal Student's (Mother's) complaint on the grounds that it was agreed at the Prehearing Conference on August 8, 2017, that Student (Mother) would be allowed to file an amended complaint after the submission of legal briefing and declarations regarding the jurisdiction issue, which were due September 26, 2017. Student (Mother) requested an extension of time to close of business on September 27, 2017, to file her briefing and declarations. OAH received no briefings or declaration on behalf of Student (Mother), and the ALJ issued her decision on October 17, 2017, which dismissed Student's complaint with prejudice. Additionally, Student (Mother) provided no new facts, law or circumstances to support her motion for reconsideration.

On November 2, 2017, District filed an opposition to Student's (Mother's) motion for reconsideration and motion to amend her complaint. On November 2, 2017, Student (Father) also filed a notice of opposition and request to continue the motion for reconsideration.

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.)

Under the IDEA, OAH decision 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 an action in state or federal district court within 90 days from the date of the ALJ's decision (20 U.S.C § 1415(i); 324 C.F.R §§ 300.514 and 300.516 (2006).) Student (Mother) has presented no authority to support a finding that reconsideration is appropriate after a final decision is issued in a due process hearing.

DISCUSSION

Reconsideration

A motion for reconsideration is improper for review of a final decision. Student (Mother has appropriate recourse for judicial review of a final OAH decision in the state and/or federal courts. Further, in arguendo, reconsideration as an appropriate review, Student (Mother) alleged no new facts, circumstances, or law in support of the requested reconsideration. Student (Mother) provided no declaration to explain her failure to file briefing and declarations for hearing, nor did Student (Mother) provide proof of sole legal custody of Student to establish OAH jurisdiction over her request for due process hearing.

Additionally, denial of reconsideration does not affect Student's (Mother's) ability to independently file a new request for due process hearing without the need to amend her original complaint. Student's (Mother's) proposed complaint presents an issue well within the statute of limitations. Therefore, Student (Mother) bears no prejudice denying reconsideration she may simply file her new complaint with OAH.

Accordingly, Student's (Mother's) request for reconsideration is denied.

ORDER

1. Student's (Mother's) motion for reconsideration is denied.

2. Student's (Father's) motion to continue the motion for reconsideration to allow Father's opposition to be filed is moot.

3. Student's (Mother's) motion to amend the due process complaint in OAH Case No. 2017050096 is denied, as that complaint was dismissed with prejudice prior to Student's (Mother') request to amend. Nothing in this order

prevents Student (Mother) from filing a new complaint with OAH, as contained in her proposed amended complaint.

IT IS SO ORDERED.

DATE: November 7, 2017

DocuSigned by:
Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings