BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: OAKLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013030300
PARENT ON BEHALF OF STUDENT, v. OAKLAND UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013020044 ORDER DENYING REQUEST FOR RECONSIDERATION

On March 22, 2013, the undersigned administrative law judge issued an order granting the Oakland Unified School District's (District's) motion to amend its complaint. On March 25, 2013, Student filed a motion for reconsideration. The District has not yet filed an opposition to the motion.

APPLICABLE LAW

The Office of Administrative Hearings (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. (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 AND ORDER

Student alleges no new facts, circumstances, or law in support of the request reconsideration. Student alleges that the Order granting the amendment "erroneously" stated that Student had not filed an opposition to the District's amendment. Student then contends "However, on March 20, 2013 at 1:52 p.m. Student's Opposition ("Motion to Dismiss") was filed via facsimile and served on the District."

Student's contention is without merit. Student did not file an opposition to the District's proposed amendment. Instead, Student filed a new motion to dismiss. This motion, by Student's own admission, was titled "Verified Motion to Dismiss Petitioner's Amended Request for Due Process Hearing." Student's motion to dismiss is being treated as a separate motion.

Motions to amend and motions to dismiss have a different legal analysis and OAH is not going to second guess the titles of motions and determine, in place of counsel, what the papers filed should really be called. If counsel for Student wanted to oppose the amendment, counsel should have filed a document titled "Opposition to Petitioner's Proposed Amendment" or some other clear title indicating that the document was in opposition to the proposed amendment. Instead, Counsel filed a new motion, a motion to dismiss, which allows for a response from the District. Student has failed to allege any new facts, circumstances or law in support of his request for reconsideration.

Accordingly, Student's request for reconsideration is Denied.

IT IS SO ORDERED.

Dated: March 26, 2013

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