BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013080189 ORDER DENYING REQUEST FOR RECONSIDERATION AND REQUEST TO VACATE DECISION

On October 11, 2013, the undersigned administrative law judge (ALJ) issued a decision finding that the San Dieguito Union High School District (District) : (1) properly assessed Student in the areas of speech and language and physical therapy, and therefore was not required to provide Student an Independent Educational Evaluation; and (2) offered Student a free appropriate public education (FAPE) in the least restrictive environment for the 2013-2014 school year pursuant to Student's July 2013 Individualized Education Plan. On, January 10, 2014, Parent on behalf of Student (Student) filed a request to vacate the decision and reconsider OAH's denial of Student's request for continuance of hearing on September 23, 2013, and this ALJ's reconsideration and denial of her request for continuance of hearing. On January 13, 2014, the District filed an opposition to Student's request. On January 17, 2014, Student filed a response to the District's opposition.

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.)

However, once a decision is issued, OAH loses jurisdiction over the matter, and the aggrieved party may appeal that decision to a court of competent jurisdiction within 90 days of the issuance of the decision. (Ed. Code, § 56505, subd. (k).)

DISCUSSION

In this matter, Student previously requested reconsideration of his request for continuance of hearing, prior to the commencement of the hearing on September 24, 2013.

The continuance was reconsidered, and the request to continue denied. As clearly indicated in the Decision, Parent opted not to participate in the hearing. Further, Parent alleged no new facts, circumstances, or law in support of the requested reconsideration.

More importantly, however, Parent requests that the decision issued on October 11, 2013, be vacated. Once the decision has been issued, Parent's remedy shifted to appeal within 90 days of the hearings. OAH has no jurisdiction to vacate a decision. Accordingly, Student's requests are denied.

ORDER

1. Student's request for reconsideration of his request to continue the hearing is denied.

2. Student's request to vacate the Decision issued October 11, 2013, is denied.

IT IS SO ORDERED.

Dated: January 21, 2014

/s/
JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings