BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. SPENCER VALLEY ELEMENTARY SCHOOL DISTRICT,	OAH Case No. 2014030842
SPENCER VALLEY ELEMENTARY SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2014030046 ORDER DENYING SPENCER VALLEY ELEMENTARY SCHOOL DISTRICT'S REQUEST FOR RECONSIDERATION AND REQUEST FOR CLARIFICATION

On August 21, 2014, the undersigned administrative law judge issued a Decision in the above-captioned matters. At that time, the ALJ was not aware that Spencer Valley Elementary School District had filed a reply to Student's written closing brief. After becoming aware that the brief had been filed, the ALJ reviewed it, considered Spencer Valley's arguments, and subsequently issued an Amended Decision on August 22, 2014.

At approximately the same time that the ALJ issued her Amended Decision, Spencer Valley filed a motion for reconsideration of the ALJ's initial Decision and a motion for clarification of the Order in the Decision. Student filed an opposition to Spencer Valley's motions on August 25, 2014. Spencer Valley filed a reply to Student's opposition on August 26, 2014.

APPLICABLE LAW, DISCUSSION AND ORDER

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.) Decisions, however, 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.) Administrative agencies generally lack the

power to order reconsideration of their decisions absent specific statutory authority to do so. (*See, 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; *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.

In this case, the ALJ's Amended Decision is a final order. Therefore, Spencer Valley's motions for reconsideration and clarification are denied.

IT IS SO ORDERED.

DATE: September 2, 2014

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings