BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN CARLOS SCHOOL DISTRICT.	OAH Case No. 2017010348 ORDER DENYING REQUEST FOR RECONSIDERATION

On January 25, 2017, the undersigned administrative law judge issued an order dismissing Student's complaint as time-barred by the statute of limitations. On January 25, 2017, Student filed a motion for reconsideration. On January 26, 2017, District filed an 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.)

DISCUSSION

Student alleges no new or different facts, circumstances, or law in support of the request reconsideration. Rather, Student contends that the ruling was prematurely issued, as "OAH rules" provide that a party has 14 days to respond to a notice of insufficiency. Student also argues the undersigned misinterpreted the law and misapplied the statute of limitations.

Student appears to have misread the Special Education Handbook available at http://www.dgs.ca.gov/oah/SpecialEducation.aspx, the OAH website. The Handbook expressly states that a party "must respond within 3 days" if they disagree with a motion filed in their case. Here, District filed both a motion to dismiss and a notice of insufficiency, and no opposition to either motion was filed by Student within three days.

The Handbook provides that an ALJ may allow a party 14 days to amend their due process hearing request if it is found insufficient in a ruling on a notice of insufficiency. This is inapposite where, as here, the motion that was ruled on was a motion to dismiss.

The motion to dismiss was decided on facts alleged on the face of the complaint, demonstrating that Parents were aware of the facts which formed the basis of Student's complaint more than two years prior to filing for due process. Those defects could not have been cured by amendment.

The law argued in Student's motion for reconsideration was included in Student's complaint. Student's interpretation of *Moyer v. Long Beach Unified Sch Dist.* (C.D. Cal. Jan 24, 2013) 2013 WL 271686 (*Moyer*), was expressly referenced in the order dismissing Student's complaint. The motion for reconsideration merely repeats the same interpretation, already rejected in the Order.

Student has not shown new or different facts, circumstances, or law justifying reconsideration, or an explanation for its failure to previously provide the different facts, circumstances or law with timely opposition to District's motion. Accordingly, Student's motion for reconsideration is denied.

To the extent Student contends that the undersigned ALJ misapplied the law concerning the statute of limitations, that is not a basis for reconsideration, but for seeking review, if and to the extent available.

IT IS SO ORDERED.

DATE: January 26, 2017

DocuSigned by:
Alexa Hohensee
A7D463FF094544B...
ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings