BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

YUBA CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025060876

ORDER DENYING REQUEST FOR RECONSIDERATION OF ISSUES

SEPTEMBER 8, 2025

On June 23, 2025, Student filed a request for due process hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Yuba City Unified School District. Student's complaint included a distinct section listing 10 legal issues Student raised against Yuba City.

Student's amended prehearing conference statement, filed on August 14, 2025, included the same list of 10 legal issues under the section entitled "Statement of Issues."

On August 18, 2025, OAH conducted a prehearing conference, called a PHC. Counsel for both parties attended the PHC. During the PHC, the undersigned engaged in an exhaustive discussion of Student's issues, during which time Student's counsel

clarified the issues pled in Student's complaint. Following a discussion of each issue in turn, Student's counsel confirmed that the undersigned had covered all of Student's issues.

On August 18, 2025, the undersigned Administrative Law Judge issued an order following the August 18, 2025, PHC, called the PHC Order. The PHC Order included the clarified issues for hearing. The PHC Order also included the following order:

> The ALJ has clarified and reorganized the statement of some issues as allowed by the holdings in *J.W. v. Fresno Unified Sch. Dist*. (9th Cir. 2010) 626 F.3d 431, 442-443, and *Ford v. Long Beach Unified Sch. Dist*. (9th Cir. 2002) 291 F.3d 1086, 1090. (But see *M.C. v. Antelope Valley Union High Sch. Dist*. (9th Cir. 2017) 858 F.3d 1189, 1196, fn. 2 [dictum].) No change in substance has been made. A party believing that an issue has been misstated or improperly omitted shall promptly file a notice in writing, prior to the first day of hearing, stating its concern and referring to supporting portions of the complaint.

The undersigned also verbally instructed the parties to file any objections prior to the start of the due process hearing, and counsel for both parties expressed that they understood the instruction. Student did not file any objection to the issues as clarified in the PHC Order prior to the start of the due process hearing.

Rather, Student made an oral motion to amend the issues on the morning of August 26, 2025, the first day of the due process hearing. Student did not provide any persuasive reason why she did not file a written objection prior to the start of the due process hearing. Yuba City objected to any changes in the issues. Student's arguments

for amending the issues were not persuasive, and the undersigned denied the motion from the bench.

The due process hearing commenced on August 26, 2025, and continued on August 27, and 28, 2025. The hearing was then continued to resume on September 9, 2025.

On September 3, 2025, more than a week after the undersigned denied her motion, and after three days of testimony, Student filed a motion for reconsideration of the undersigned's denial of Student's verbal motion to amend the issues. Student cites an order from the District Court for the Southern District of California in the matter of *D.G. v. Alpine Union School District* (S.D. Cal 2025) 24-CV-0220-BAS-MSB, issued on August 26, 2025, and "newly discovered facts during the due process hearing" as grounds for reconsideration. Student also asserts that her complaint includes another legal issue, not listed under the relevant section in either her complaint or amended PHC statement, but buried in her statement of alleged facts.

On September 5, 2025, Yuba City timely filed an opposition. Yuba City asserts that Student's motion is not timely, that Student failed to timely object to the undersigned's clarification of the issues in the PHC Order, and that Student does not provide applicable legal authority or valid grounds to revise the issues.

APPLICABLE LAW

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, generally within ten days. (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 did not file the request for reconsideration within a reasonable period of time. Student waited a week to file her motion, which included three days of hearing. During that time, the undersigned ruled on multiple evidentiary objections based on the issues as clarified in the PHC Order. The parties relied on the statement of issues, as discussed at the PHC and reiterated before the hearing began, to develop direct and cross-examination of witnesses within the first three days of hearing.

Student does not offer any new facts to justify reconsideration. Student asserts that "newly discovered facts during the due process hearing" constitute grounds for reconsideration of the undersigned's August 26, 2025, Order. However, Student does not identify any such facts or explain their relevance to Student's motion for reconsideration. The undersigned will not speculate as to what facts Student believes justify reconsideration.

Student's argument that her complaint included another issue not documented in the enumerated list of 10 issues is likewise unpersuasive. Student now asserts that her complaint included an issue that the May 6, 2024, individualized education program, called an IEP, did not include a clear offer of a free appropriate public education, called a FAPE. Student relies on a single conclusory statement buried in her statement of alleged facts. Student did not raise this as an issue for hearing in her complaint, identify it in her amended PHC statement, or indicate that the undersigned did not address this issue during the PHC. A party requesting the hearing is limited to the issues alleged in the complaint unless the other party has consented. (20 U.S.C. § 1415(f)(3)(B); Ed. Code,

§ 56502, subd. (i).) Student cannot now argue on reconsideration for something that she had the opportunity to raise previously but failed to do.

Finally, Student argues that an order from the District Court for the Southern District of California in the matter of *D.G. v. Alpine Union School District* (S.D. Cal 2025) 24-CV-0220-BAS-MSB (*D.G.*), issued on August 26, 2025, justifies reconsideration. However, Student again fails to present a persuasive argument. Student does not explain how the order in *D.G.* is controlling precedent, especially considering significant Ninth Circuit authority confirming an administrative law judge's authority to clarify and reorganize issues. (*J.W. v. Fresno Unified Sch. Dist.*, supra, 626 F.3d at pp. 442-443, and *Ford v. Long Beach Unified Sch. Dist.*, supra, 291 F.3d at 1090.)

Student suggests, but does not explain how, the undersigned's clarification of issues was impermissible. (*J.W. v. Fresno Unified Sch. Dist.*, supra, 626 F.3d at pp. 442-443.) It is not the undersigned's responsibility to construct or develop a party's argument. (See *Independent Towers of Washington v. Washington* (9th Cir. 2003) 350 F.3d 925, 929 [the court cannot construct arguments for a party, and will only examine issues specifically and distinctly argued in a party's brief]; *Loewen v. Berryhill* (9th Cir. 2017) 707 Fed. Appx. 907, 908 (nonpub. opn.) citing *Carmickle v. Commissioner* (9th Cir. 2008) 533 F.3d 1155, 1161, fn. 2 [the court is not required to address arguments made without specificity].) Therefore, Student has failed to establish that the undersigned's August 26, 2025, order denying Student's verbal request to amend the issues should be reconsidered.

Nevertheless, Student is not without recourse. Student is not required to assert all possible claims against Yuba City in the current due process matter. (20 U.S.C. § 1415(o).) If Student believes she has additional claims against Yuba City, including based on new information she received through witness testimony, she may file a

separate due process complaint to have those claims heard in a separate due process matter.

ORDER

1. Student has not established the undersigned's denial of Student's verbal motion to amend the issues should be reconsidered.
2. The motion for reconsideration is denied.
3. The issues for hearing as stated in the PHC Order are confirmed.
4. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi
Administrative Law Judge
Office of Administrative Hearings