BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

BRENTWOOD UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2020100188

ORDER DENYING REQUEST FOR RECONSIDERATION

OCTOBER 19, 2020

On October 13, 2020, the undersigned Administrative Law Judge issued an Order Granting in Part and Denying in Part Motion to Stay Put. Specifically, the October 13, 2020 Order concluded that "Student's September 11, 2019 IEP and June 4, 2020 Amendment constitute stay put" and "may be implemented during school closure pursuant to Brentwood Union School District's distance learning plan developed for Student." OAH denied the motion for stay put on the grounds the September 11, 2019 IEP and June 4, 2020 Amendment provided applied behavioral analysis services for the 2020 Extended School Year and was not included in the offer of a free appropriate public education for the 2020-2021 regular school year.

Student timely filed a Motion for Reconsideration of Stay Put Order with supporting sworn declarations on October 16, 2020.

The Office of Administrative Hearings did not receive a response from Brentwood Union School District.

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, 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

Here, Student's Motion included declarations from Student's parent, advocate and behavioral services providers asserting that during the 2020 Extended School Year Student received in-home services by a registered behavior specialist. The declarations generally state Student benefited from these services and that Brentwood Union School District advised parent and the service providers at an August 13, 2020 individualized education program team meeting that in-person services would not be provided during the 2020-2021 school year due to the COVID-19 pandemic and school closure.

The Declarations of Jeanine Wilkinson, Board Certified Behavior Analyst and Marie Fajardo, Student's advocate assert Student was provided in-home behavior services during four days at the start of the 2020-2021 regular school year. Student argues this proves stay put includes in-home behavioral services during the regular school year. This argument contradicts the express terms of the September 11, 2019 IEP and June 4, 2020 Amendment, the last agreed upon and implemented IEP. Further, the

sworn declarations filed with the motion confirm Brentwood Union School District advised Parents that instruction and related services for the 2020-2021 school year would occur through a distance learning delivery model. Therefore, Student did not meet his burden of proving in-home behavioral services are stay put.

Student further argued the IEP failed to provide Parents with a clear written offer of FAPE and that Brentwood Union School District's decision to not provide services to Student follows a pattern of unilaterally predetermining Student's IEP services. These issues are not relevant to the issue of stay put. These issues relate to whether Brentwood Union School District denied Student a free appropriate public education and are properly the subject of an evidentiary due process hearing.

Student's motion offers no new facts, circumstances or law justifying reconsideration. The Motion for Reconsideration is denied.

ORDER

Student has not established the October 13, 2020 Order should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

DocuSigned by:
Jennifer Kelly
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Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings