BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. NEWPORT-MESA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018100405 ORDER DENYING MOTION FOR RECONSIDERATION

On October 24, 2018, the undersigned Administrative Law Judge issued an order that partially granted Student's motion for stay put. On November 19, 2018, Newport-Mesa Unified School District filed a motion for reconsideration. On November 26, 2018, Student filed an opposition to Newport-Mesa's motion. On November 28, 2018, Newport-Mesa filed a reply to Student'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.)

DISCUSSION

Newport-Mesa alleges no new facts, circumstances, or law in support of the request to justify reconsideration. Although Newport-Mesa alleges it learned of new facts on November 15, 2018, that warrant reconsideration, it misunderstood the order partially granting Student's motion for stay put. OAH found, for purposes of stay put, that Student did not transfer during the 2017-2018 school year or the 2018-2019 school year. For purposes of stay put, OAH found that Student transferred over the summer therefore was not entitled to stay put based upon the October 17, 2017 IEP that was subsequently amended then consented to on July 20, 2018. The rights of a transferring student only apply in the case of a transfer within the same academic year that the student was in the previous district.

There are no federal or state statutory provisions addressing the situation where a student transfers between school years, such as during summer vacation.

Newport-Mesa argues that the only way OAH could rely on its offer of FAPE in its IEP interim placement request dated September 25, 2018, as stay put is if Student transferred into the district within the same academic year. The order partially granting stay put was not premised on Student being entitled to an interim offer based on his last agreed upon and implemented IEP from the prior school district. For purposes of stay put, Student transferred between school years; therefore, whatever Newport-Mesa offered for the 2018-2019 school year became Student's stay put once that offer was consented to and implemented. OAH ordered Newport-Mesa to implement and fund its offer of FAPE in its IEP interim placement request dated September 25, 2018, because that was the only offer of FAPE Newport-Mesa made for the 2018-2019 school year. OAH did not order Newport-Mesa to implement and fund the offer because Student was entitled to an interim placement. For purposes of stay put, the title of the document, in this case an interim placement request, is irrelevant. Accordingly, Newport-Mesa's motion for reconsideration is denied.

ORDER

Newport-Mesa Unified School District's motion for reconsideration is denied.

DATE: November 30, 2018

DocuSigned by:
Linda Johnson
5092A92341544B9...

LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings