BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025080841

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING MOTION FOR STAY PUT

SEPTEMBER 10, 2025

On August 22, 2025, the undersigned Administrative Law Judge issued an order denying Student's motion for stay put. On August 25, 2025, Student filed a motion for reconsideration supported by Parent's sworn declaration and numerous attachments. The Office of Administrative Hearings did not receive a response from San Diego Unified 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 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 offers new facts, circumstances or law. to support reconsideration. The motion for reconsideration is granted.

ON RECONSIDERATION STUDENT IS NOT ENTITLED TO STAY PUT

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed. Code, § 56505 subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational placement is typically the last agreed upon and implemented individualized educational program, called IEP, placement prior to the dispute arising. (Thomas v. Cincinnati Bd. of Educ. (6th Cir. 1990) 918 F.2d 618, 625.)

In California, "specific educational placement" is defined as "that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs," as specified in the IEP. (Cal. Code Regs. tit. 5, § 3042, subd. (a).)

Student has not been found eligible for special education and related services. For a student who has not yet been determined eligible for special education, stay put protections apply only if the student engaged in behavior that violated a code of school

conduct resulting in disciplinary proceedings, and the district had a basis of knowledge that the student had a disability before the behavior prompting the disciplinary action occurred. (20 U.S.C. § 1415(k)(5)(B).)

Once again, Parent argues San Diego had a basis of knowledge that Student had a disability. Whether or not San Diego had a basis of knowledge is not relevant to stay put on the facts presented here. Student does not allege that she violated a code of school conduct resulting in removal from her educational placement. Parent asserts Student's "removal was carried out as a disciplinary exclusion not a neutral enrollment adjustment, and was enforced in ways indistinguishable from school discipline." Parent further argues San Diego's actions of calling the police, threatening Parent with arrest, initiating trespass and stay-away orders, and removing Student from her educational program to retaliate against Parent and punish Student, all amount to disciplinary acts that bring Student under the protections of Section 1415(k) of the United States Code and entitle Student to stay put. It is Parent's position that, "disciplinary exclusion under the IDEA encompasses not only punishment for a child's own behavior, but also punitive actions imposed on a student for circumstances beyond her control such as her parent's advocacy or housing status." Parent's arguments are not legally supported.

Student's complaint does not allege any violations of Student's disciplinary rights. Further, the motion for reconsideration acknowledges that Student has not engaged in misconduct. Parent's arguments that San Diego's actions are part of a broader pattern of discrimination and that San Diego has violated the McKinney-Vento Act do not support Student's right to stay put. Parent has not established that Student is entitled to stay put.

ORDER

On reconsideration, the motion for stay put is DENIED. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Theresa Ravandi

Theresa Ravandi
Administrative Law Judge
Office of Administrative Hearings