BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CLOVIS UNIFIED SCHOOL DISTRICT AND ALUM ROCK UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017010439 ORDER DENYING REQUEST FOR RECONSIDERATION

On January 23, 2017, the undersigned administrative law judge issued an order denying Student's motion for stay put. On January 24, 2017, Student filed a motion for reconsideration of the order denying the stay put motion. On January 26, 2017, Clovis Unified filed an opposition to the motion.

Also, on January 31, 2017, OAH granted Student's request to file an amended complaint, which added Alum Rock Unified School District as a respondent.

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

Reconsideration

Student has not provided new or different facts, circumstances, or law relative to the order denying Student's motion for stay put. Student's motion sought a ruling that Clovis Unified School District should implement a January 2016 individualized education program that had been offered by a different school district, Mount Pleasant Unified School District.[1]

[1] Clovis USD is located in Fresno, where Student moved in the summer of 2016. Prior to moving to Fresno, Student resided in San Jose within the Alum Rock Unified School

The motion was denied because Student had not provided evidence that the January 2016 IEP was ever implemented. On the motion for reconsideration, Student similarly does not provide evidence that the January 2016 IEP was implemented.

Student states that when she filed the motion for stay put, she had not yet received all of her records from Clovis Unified, and Student's prior schools, Mt. Pleasant Elementary School District and Most Holy Trinity School. Student argues that these documents are new evidence that support a reconsideration of Student's motion to stay put.

However, this evidence does not indicate that the January 2016 IEP was ever implemented. The motion for reconsideration provides no new evidence indicating the January 2016 IEP was implemented before Student moved to Fresno in the summer 2016. Further, Student provides no additional evidence that the January 2016 was implemented after registering with Clovis Unified. The new evidence Student submitted, specifically, a copy of Clovis Unified's August 22, 2016 Interim Special Education Services (IEP) for Student, after she moved to Fresno, California, indicates the contrary. In fact, on page 5 of the motion for reconsideration, Student argues "that the IEP that should be implemented should be the January 5, 2016 [IEP] . . . since the 'interim' IEP of 8/22/2016 does not include services comparable to the January 5, 2016 IEP." In other words, Student complains that the Clovis Unified interim IEP did not implement the January 2016 IEP. Student's own legal argument acknowledges that the January 2016 IEP has never been implemented. Student's contention that the IEP should have been implemented is an issue for hearing.

Accordingly, Student's request for reconsideration is denied.

IT IS SO ORDERED.

DATE: January 30, 2017

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CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings

District, but attended a nonpublic school located within the Mt. Pleasant School District. Mount Pleasant's January 2016 IEP is the IEP at issue in the motion for stay put.