BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2025110210

ORDER DENYING MOTION FOR RECONSIDERATION REGARDING STAY PUT

JANUARY 9, 2026

On December 16, 2025, the undersigned Administrative Law Judge issued an Order Denying Motion for Stay Put Regarding School Day and an Order Denying Motion for Stay Put Regarding Afterschool Program. The proofs of service for those Orders indicate they were served on December 16 and 18, 2025, respectively. On January 2, 2026, Student filed a Motion for Reconsideration of Stay Put, regarding both Orders. The Office of Administrative Hearings, called OAH, did not receive a response from Cupertino Union School District.

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 10 days. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008, subd. (a) ("any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order".) 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.)

The motion for reconsideration was not filed within 10 days after December 16 or December 18, 2025, which would have been December 26 and 29, respectively. Student argues filing on January 2, 2026, was reasonable in view of the fact that self-represented Parent is Student's representative and Parent did his best under his circumstances. Without establishing a policy of accepting in the future motions for reconsideration filed more than 10 days after service of written notice of entry of the order, Student's motion for reconsideration will not be denied solely on the basis that it was untimely.

Student's motion for reconsideration does not establish new facts, circumstances, or law to support reconsideration. Student's motion for reconsideration re-hashes arguments Student previously made and does not defeat the fact that at the time Student's request for due process hearing was filed, and without a change to that status in the interim, Student was a general education Student. 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."

After November 2024, Student was no longer a special education student and when the request for due process hearing in this case was filed, Student was a general education student who did not have protections for stay put under the Individuals with Disabilities Education Act and related state law. Additionally, with respect to the Extended Learning Opportunities Program after regular school hours, Student failed to establish that the afterschool program constitutes a "placement" to which Student has any entitlement to "stay put" under the Individuals with Disabilities Education Act and related state law or from which Student cannot be removed during the pendency of a special education due process hearing based on Parent's alleged bad conduct.

ORDER

Student has not established the December 16, 2025 Orders denying Student's motions for stay-put regarding the regular school day and the Extended Learning Opportunities Program after school should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings