

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014030365

ORDER DENYING REQUEST FOR
RECONSIDERATION

On April 11, 2014, the undersigned administrative law judge issued an order denying Student's motion for stay put on the grounds that there was no operative individualized education program (IEP) that defined Student's stay put placement at the Sacramento City Unified School District (Sacramento).

Subsequent to the issuance of the order, Student filed three documents, which basically appear to be intended as Student's response to Sacramento's opposition to Student's motion for stay put. Since the documents were filed after the ALJ issued her order denying Student's motion for stay put, the ALJ is treating them as Student's request for reconsideration of that order.

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 AND ORDER

The document filed by Student on April 13, 2014, states that Student's mother never refused to sign Student's February 12, 2014 IEP. However, as stated in the original order denying Student's motion for stay put, the IEP submitted by Student to OAH does not contain a signature page. Furthermore, even assuming Mother had signed the IEP, there is no evidence that the IEP placed Student at James Marshall Elementary School, the school Student believes to be her stay put placement. To the contrary, the IEP document states that Hollywood Park is Student's school of attendance.

In the document filed on April 14, 2014, Student states that Sacramento misrepresented the fact that the sixth grade camp Student had wanted to attend had already occurred when, in fact, the children from James Marshall will not attend until the week of April 21, 2014. However, even assuming that Student is correct, Student has failed to provide any new evidence that James Marshall is Student's stay put placement.

Student filed her third document on April 16, 2014. In it she states that the only thing preventing Student from attending James Marshall has something to do with the adult to child ratio at that school. Again, even assuming that information to be correct, it does not provide evidence that James Marshall is Student's stay put placement.

Since Student raises no new facts, circumstances, or law in support of her request for reconsideration, the request is denied.

Student states in the three documents that they are also intended to supplement her prehearing conference statement, which Student filed on April 3, 2014. The instant order denying Student's request for reconsideration of order denying motion for stay put, is not intended to prevent Student from discussing the issues in her supplemental pleadings during the prehearing conference in this case. However, this order also makes no findings regarding whether Student's supplemental documents raise new issues that were not previously raised in her due process complaint and whether those issues are properly before OAH. Student's Parent may discuss the issues and the scope of Student's due process complaint at the time of the prehearing conference.

IT IS SO ORDERED.

DATE: April 17, 2014

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings