

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

EAST SIDE UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015100670

ORDER DENYING REQUEST FOR
RECONSIDERATION

On November 3, 2015, the undersigned administrative law judge issued an order denying Student's motion for stay put. On November 5, 2015, Student timely filed a motion for reconsideration on the grounds that Student's counsel discovered a District Court decision issued on September 21, 2015, which supports reconsideration.

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

Student alleges no new facts, circumstances, or law in support of the request for reconsideration. The failure to cite a decision that was published before Student's motion for stay put was filed does not constitute new law. Student contends *D.G. v. San Diego Unified School District* (2015) 115 LRP 47750 compels reconsideration of the order denying stay put. Student's counsel does not offer any explanation for why this case was not argued in the motion for stay put. In any event, *D.G. v. San Diego Unified School District* involves a critically different set of facts.

In *D.G.*, student resided within the boundaries of Del Mar Union School District. D.G. attended The Institute for Effective Education (TIEE), a private school for autism, based upon an individualized education program implemented by Del Mar which provided for placement at TIEE through June 30, 2015. Student moved from Del Mar to within the boundaries of San Diego Unified School District in June 2015. Although San Diego placed

students at TIEE, at the same location where D.G. was receiving instruction, San Diego declined to offer D.G. placement at TIEE and the District Court found TIEE to be stay put.

In this case, Student moved between districts before the IEP from Fremont Unified School District was implemented on September 8, 2015, after the East Side school year began and East Side did not place students in the Project Search program. Therefore, *D.G. v. San Diego Unified School District* is distinguishable on the facts and would not apply.

Accordingly, Student's request for reconsideration is denied.

IT IS SO ORDERED.

DATE: November 06, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings