

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PALO ALTO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024060681

ORDER GRANTING REQUEST FOR RECONSIDERATION
AND DENYING MOTION FOR STAY PUT

JUNE 28, 2024

On June 27, 2024, the undersigned Administrative Law Judge issued an order denying Student's motion for stay put. On June 28, 2024, Student filed a motion for reconsideration of the stay put denial. On June 28, 2024, Palo Alto filed an opposition.

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 alleges in the reconsideration motion that Palo Alto made a separate placement offer of PACE NPS on June 4, 2024. Student presented this new fact, to support reconsideration. Thus, Student's motion for reconsideration is granted.

Nothing in the request for reconsideration alters the prior legal conclusion that Student is not entitled to remain in his temporary placement at Jane Lathrop Stanford Middle School as stay put. However, when a prior placement becomes unavailable, the local education agency must offer a student a comparable program. Palo Alto must maintain a placement that is substantially and materially the same. *Letter to Fischer*, 21 IDELR (OSEP 1994). In the motion for reconsideration, Student mentioned for the first time that Palo Alto offered a new non-public school placement. Student correctly asserted that not all non-public schools are similar or appropriate for a student. The mere passing mention of PACE NPS in Student's motion for reconsideration, however, does not provide sufficient information to reach a determination whether PACE NPS is comparable to Student's previous NPS. Accordingly, it is not possible to reach a determination of whether this placement was comparable to Student's previous NPS offer for the purposes of stay put. Nothing precludes Student from arguing PACE is not comparable for stay put purposes to Student's last placement; however, Student failed to do that in his motion for reconsideration.

ORDER

Student 's motion for reconsideration was granted. On reconsideration, Student's motion for stay put is denied.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Tiffany Gilmartin".

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings