

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024090036

ORDER DENYING REQUEST FOR RECONSIDERATION

SEPTEMBER 30, 2024

On September 24, 2024, the Office of Administrative Hearings, OAH, issued Administrative Law Judge Dalton's order denying Student's motion for stay put. On September 26, 2024, Student filed a motion for reconsideration. On September 26, 2024, San Dieguito Union High School District filed an opposition.

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 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.)

Student offers no new facts, circumstances or law to support reconsideration. Rather, Student reiterates arguments presented in his original motion and seeks a different outcome. Student argues that educationally related mental health services counseling provided outside of Student's regular school day, funded by Student's prior school district Ramona Unified School District, must be part of Student's stay put at San Dieguito. Student again points to Ramona's October 20, 2022 email stating that the special education director agreed to include individual counseling in Student's IEP. The email did not state that educationally related mental health services, or individual counseling, provided outside of Student's regular school day would be provided as part of Ramona's offer of a FAPE.

Student's stay put individualized education program, IEP, dated December 22, 2022, as amended and consented to on February 10, 2023, did not identify educationally related mental health services, let alone such services to occur outside of the school day as a related service. Educationally related mental health services were not identified anywhere in the four corners of the IEP.

A child's IEP must provide a statement of the special education and related services and supplementary aids and services to be provided to the child and a statement of the program modifications or supports for school personnel that will be provided to enable the child to, among other things, advance appropriately toward attaining annual goals, to be involved in and make progress in the general education curriculum and participate in extracurricular and nonacademic activities, and to be educated with other individuals with exceptional needs and nondisabled pupils. (Ed. Code, § 56345.)

An IEP provides a means for parents to enforce the special education and related services offered. An IEP also provides a means for tracking a student's progress in the

placement and services offered. An IEP which neither identifies a particular service nor discusses a child's progress within that service does not support a determination that the absent service was merely omitted by mistake. Student presented no declarations from Ramon stating that the services were omitted from its offer of FAPE by mistake. Other inferences are equally likely. For example, the service might have been offered as part of a negotiated settlement agreement. Ramona may have offered the service as part of a district program, unrelated to its offer of FAPE. What is apparent is that Ramona had the opportunity to offer educationally related mental health services outside of the regular school day as part of its offer of FAPE. Ramona chose not to do so.

ORDER

Student has not established the September 24, 2024 Order should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

Cole Dalton

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings