

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NOVATO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011050282

ORDER DENYING REQUEST FOR
RECONSIDERATION

On May 16, 2011, the undersigned administrative law judge issued an order denying Student's Motion for Stay Put. On May 26, 2011, Student filed a Motion for Reconsideration. On June 1, 2011, District 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. (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, but reargues the position taken in the original motion. There, as here, Student argues that when his parents rejected District's offer of a District pre-school, but consented to District's offer of NPA behavioral services, the NPA services became his stay-put placement. Student's motion challenges the Order's ruling, that the offer of services was attached to the offer of placement and could not constitute stay put independently of the pre-school, while Student chose to attend a private school. Student's motion attaches a declaration from Student's expert, attesting to her opinion that the District-offered pre-school placement was inappropriate. Although this opinion is relevant to the ultimate issue of whether District's offer constituted a free appropriate public education (FAPE), it is not relevant to determining Student's last agreed upon and implemented placement for purposes of stay-put. Student re-argues the law concerning partial consent to an IEP that was already considered and analyzed, under the particular circumstances of this case, in the prior Order. Finally, Student argues that the District's offer of pre-school was not actually the operative placement offer; rather, Student argues that the NPA behavioral services constituted the actual offer of placement. According to the records produced in connection with the Motion

for Stay Put and the opposition, it appears that District offered a pre-school placement and NPA behavioral services, and that Student endeavored to reject the placement but consent to the services while he elected to attend private school. Student's argument, that that combination constituted his stay put placement, was rejected in the prior Order. Accordingly, Student's request for reconsideration is denied.

IT IS SO ORDERED.

Dated: June 02, 2011

/s/

JUNE R LEHRMAN
Administrative Law Judge
Office of Administrative Hearings