

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO-FOSTER CITY SCHOOL
DISTRICT.

OAH CASE NO. 2011080043

ORDER GRANTING DISTRICT'S
REQUEST FOR RECONSIDERATION
AND DENYING STUDENT'S
PREVIOUSLY-GRANTED MOTION
FOR STAY PUT

On September 8, 2011, Student filed a motion for stay put. On September 16, 2011, the undersigned administrative law judge issued an order granting Student's motion, finding that it had not been opposed by District. On September 16, 2011, District filed a motion for reconsideration, contending that, on September 13, 2011, it had filed an opposition to the motion that had not been considered. As discussed below, after reviewing District's arguments, the motion for reconsideration is granted and the motion for stay put, which was previously granted, is now denied.

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

Pursuant to Student's last agreed upon IEP, dated October 16, 2009, and consented to by parent's signature on January 12, 2010, Student's last agreed upon placement was Stanbridge Academy, a private day school certified by the California Department of Education. The IEP specified that "[Student] attends Stanbridge Academy. [District] fund[s] tuition." Student's motion for stay put sought a continuation of this placement and funding, and contended that Student was entitled to full reimbursement of 100% of Stanbridge's tuition, but that for the 2011-2012 school year, District was only agreeing to fund 50%.

District's motion for reconsideration contends that the October 16, 2009, IEP implemented a Settlement Agreement dated June 17, 2009, pursuant to which District's obligations were not to fund full tuition but rather to "reimburse Mother 50% of full

Stanbridge Academy tuition . . . in an amount not to exceed \$14,000.” District also points out that the October 16, 2009, IEP specifically states in the comments section that “After discussion, the team decided to continue [Student’s] educational placement at Stanbridge Academy for the 2009-2010 school year, *as per the settlement agreement* previously signed by parent and District.” (Emphasis added.)

Thus, although the IEP states that District “funds tuition,” it is clear that the IEP merely implements the terms of the prior Settlement Agreement pursuant to which only 50% of tuition was actually required to be reimbursed.

Parent’s declaration, attached to Student’s motion, argues that for the 2008-09 school year, District reimbursed Parent for full Stanbridge tuition in the total amount of \$20,250. However, as District correctly points out, this was prior to the execution of the June 17, 2009, Settlement Agreement or the October 16, 2009, IEP. After these documents were executed, District’s reimbursements have not materially exceeded the \$14,000 yearly cap. Therefore, Student’s motion for stay put, seeking full 100% reimbursement, is not supported either by the language of the Settlement Agreement, nor the IEP, nor the course of conduct of the parties pursuant to those documents. District’s motion for reconsideration is therefore granted, and the previously granted motion for stay put is now denied.

ORDER

District’s motion for reconsideration is granted. The previously granted motion for stay put is denied

Dated: September 16, 2011

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings