

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

EXETER UNION SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009040443

ORDER DENYING REQUEST FOR
RECONSIDERATION

On April 27, 2009, the undersigned Administrative Law Judge (ALJ) issued an order granting Student's motion for stay put. On May 5, 2009, the District filed a motion for reconsideration on behalf of the District. On May 8, 2009, Student filed an opposition to the motion.

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

In its motion for reconsideration, the District alleges new facts, claiming that a statement in the declaration submitted with its opposition to Student's motion for stay put is incorrect. Specifically, the District asserts in its declaration that it does not have any other contracts with the nonpublic agency (NPA) that has provided services to Student pertaining to other students. With the motion for reconsideration, the District provides a declaration that also explains why the District stopped contracting with that NPA in November 2008, and a description of events that occurred after the order for stay put was issued.

In his opposition, Student argues that some of the District's claims about the termination of the contract with the NPA are not new evidence. Student also asserts that the District's motion for reconsideration and accompanying declarations contain inadmissible

hearsay. He also provides an explanation of the events that occurred after the issuance of the order for stay put. Finally, he argues that the District has not provided an explanation as to why it did not previously provide the information it is now providing concerning the contract with the NPA, and for all these reasons the request for reconsideration should be denied.

District has not made a showing of new or different facts, circumstances, or law justifying reconsideration. There were several factors this ALJ relied on in granting the motion for stay put. The existence of other contracts between the District and the NPA was just one of the factors, and was not given a significant amount of weight. The fact that the District does not have other contracts with the NPA is not sufficient reason to reconsider the order for stay put. The circumstances surrounding the termination of the contract with the NPA, and the reasons given by the District for terminating that contract, are also insufficient reasons for reconsideration. Finally, the events that occurred after the issuance of the stay put order are insufficient reasons for reconsideration. Accordingly, the motion for reconsideration is denied.¹

It is so ordered.

Dated: May 13, 2009

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

¹ There is no need to address Student's arguments in his opposition to the motion for reconsideration because there are other grounds for denying the motion for reconsideration.