BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014080868 ORDER DENYING REQUEST FOR RECONSIDERATION

On September 11, 2014, the undersigned administrative law judge issued an order denying Student's motion for stay put on the basis that Student did not have a placement in which she was entitled to stay put because she did not file a request for due process until after she had been issued a regular high school diploma, which occurred almost seven months after District informed Student and Parent that because Student was on track with regard to credits and requirements to be issued a regular high school diploma, District intended to exit Student from special education upon completion of the diploma requirements in June 2014.

On September 22, 2014, Student filed a request for reconsideration requesting clarification of whether the ALJ had received, read, and considered Student's Response to District's Opposition to Student's motion for stay put, which Student had filed on the afternoon of September 11, 2014. Student contends that her response to District's opposition contained facts not included in her original motion and that those facts warrant a different result. Student's request for reconsideration also presents legal arguments not made in her original motion, disputing the result of the order denying stay put. On September 23, 2014, District filed an opposition to the request for reconsideration.

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 contends the facts contained in her response to District's opposition to the motion for stay put justify a different result. Although the sworn declaration of Student's mother attached to Student's September 11, 2014 response to District's opposition is essentially rebuttal evidence disputing District's assertion in its opposition that Student participated in the graduation ceremony and that Student accepted her high school diploma, whether Student participated in commencement exercises or "accepted" the high school diploma District issued are not legally relevant facts to the issue of whether, at the time Student filed for due process, she had a special education placement in which she was entitled to remain during the pendency of her due process case. Student's response to District's opposition creates a factual dispute, but not over a fact that is legally relevant to a motion for stay put. And while Student could not have been expected in her original motion for stay put to include rebuttal to irrelevant facts and arguments District would present in its opposition, consideration of irrelevant facts and arguments either prior to issuing the order or upon this request for reconsideration is not appropriate.

Student's request for reconsideration contains legal arguments beyond those in Student's motion, but Student offers no explanation of why such arguments could not have been presented with the original motion. Student's arguments are in the nature of an appeal of the order denying stay put, insisting that that the order was wrongly decided and ought to be changed. Ultimately, Student alleges no new facts, circumstances, or law in support of the request for reconsideration.

Accordingly, Student's request for reconsideration is denied.

IT IS SO ORDERED.

DATE: September 26, 2014

/S/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings