BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015050149
v.	ORDER GRANTING REQUEST FOR RECONSIDERATION; GRANTING STUDENT'S REQUEST FOR STAY PUT
BELLFLOWER UNIFIED SCHOOL DISTRICT.	

On June 17, 2015, the undersigned administrative law judge issued an order granting Parent on behalf of Student's request for stay put. On June 18, 2015, Bellflower Unified School District filed an emergency request to vacate order granting stay put. District's motion is considered a request for reconsideration. On June 22, 2015, Student submitted her non-opposition to District's request that the Office of Administrative Hearings reconsider its June 17, 2015 order.

APPLICABLE LAW

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. (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.)

The party requesting a special education due process hearing must provide the opposing party with notice of the complaint by delivering a copy of the complaint to them at the same time that it is filed with OAH. (20 U.S.C. § 1415(b)(7)(A); Ed. Code, §56502, subd. (c).)

A regular high school diploma must be fully aligned with the state's academic standards. (34 C.F.R. § 300.102(a)(3)(iv)(2006).) A pupil with exceptional needs who has met all state and school district requirements and graduates from high school with a regular diploma is no longer eligible for special education and related services. (Ed. Code, § 56026.1, subd. (a).)

DISCUSSION

District alleges that Student failed to properly serve it a copy of her motion for stay put. In support if its motion, District provided evidence that Student mistakenly served the motion, via facsimile, to District counsel's telephone line, not the facsimile line. Consequently, Student did not properly serve District her motion. District must be properly served the motion. Accordingly, District's motion for reconsideration is granted.

On reconsideration, District contends that Student is not entitled to stay put because she has met the necessary requirements for graduation. District relies upon OAH case number 2011110413, which held that when a student with a disability meets all state and school district requirements for an award of a regular high school diploma, he cannot be denied a diploma simply because he has a disability. (OAH Case No. 2011110413; See also *Letter to Anonymous* (OSEP 1994) 22 IDELR 456.) However, the instant case is distinguishable from the one District cites because Student alleges that she has not met the necessary graduation requirements because District inflated her grades.

The state requires that a student complete the curriculum, and have sufficient passing credits in each required area of study. In California, when an individual with exceptional needs meets public education agency requirements for completion of a prescribed course of study designated in the student's individualized education program, the public education agency which developed the individualized education program shall award the diploma. (Cal. Code Regs., tit. 5, § 3070.) Here, Student alleges that she has not met the prescribed course of study designated in her individualized education program's, and that District has unlawfully proceeded with awarding her a regular high school diploma. Accordingly, Student is entitled to a stay put order that bars District from conferring a regular high school diploma on Student pending a due process hearing on Student's complaint. Therefore, District's motion to vacate stay put order is denied.

ORDER

1. District's request for reconsideration is granted.

2. Student's motion for stay put is granted, and her last agreed-upon and implemented educational program are the special education and related services that she received as of her May 18, 2015 individualized education program.

DATE: June 22, 2015

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings