BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

GREENFIELD UNION SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2019100729

ORDER DENYING REQUEST FOR RECONSIDERATION

On December 4, 2019, the undersigned Administrative Law Judge issued an Order Denying: 1. Student's Motion for Continuance and 2. Student's Motion to Limit Evidence. This Order was issued in response to Student's November 25, 2019 "Continuance Motion of Motion to Notice Witness Due Process." (*Sic.*)

On December 11, 2019, Student filed by United States Postal Service with the Office of Administrative Hearings, called OAH, a "[Continuous Motion: Reconsideration (ALJ) Misinterpretation]." (*Sic.*) Student's motion states, "Continuous Motion: [Notice to Witness Due Process] dated [November 21, 2019] misinterpreted by (ALJ) Kara Hatfield as Ordered, ''Student has no basis to limit the evidence in the due process hearing to exclude Parent as a witness.' Furthermore, '[t]o limit evidence to exclude Parent as a witness is denied.' Request Reconsideration by (ALJ) presently." (*Sic.*)

OAH did not receive a response from Greenfield Union School District and Student did not provide proof that Parent served the motion for reconsideration on Greenfield or its attorney.

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, generally within ten days. (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

Student offers no new facts, circumstances or law to support reconsideration. Student repeats his earlier, erroneous, assertion that the Fifth Amendment to the United States Constitution prohibits Greenfield from calling Parent as a witness in this administrative due process hearing. Student even purports to quote a "Supreme LandMark case [(Blackburn. v. Superior Court (1993) 21 Cal. App 4th 414.428] 'A Party is not entitled to decide for himself whether he is protected by the [Fifth Amendment] privilege' unto criminal cases and grand jury indictment" [*sic*], but still seeks to have Parent decide for herself that she is protected by the Fifth Amendment in this non-criminal case, and not involving a grand jury indictment. As hearings under the Individuals with Disabilities Education Act are civil, not criminal, in nature, objections based on the privilege against self-incrimination are to be raised when the witness is questioned and the court to decide "after conducting '*a particularized inquiry, deciding,*

in connection with each specific area that the questioning party seeks to explore, whether or not the privilege is well founded. [Citation.]' [Citations.]" (*Warford v. Medeiros* (1984) 160 Cal.App.3d 1035, 1045.) "Consequently, a civil defendant does not have the absolute right to invoke the privilege against self-incrimination." (*Fuller v. Superior Court* (2001) 87 Cal.App.4th 299, 306.)

ORDER

Student has not established the December 4, 2019 Order should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

DATED: December 13, 2019

DocuSigned by:
Kara Hatfield
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Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings