

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CALIFORNIA CHILDREN'S SERVICES.

OAH CASE NO. 2011060589

ORDER DENYING MOTION FOR
RECONSIDERATION, FOR
EXTENSION OF TIME TO
RECONSIDER, AND FOR TRANSFER
TO ANOTHER JUDGE

On April 19, 2012, the undersigned Administrative Law Judge (ALJ) filed a decision in this matter in favor of Student.

On May 18, 2012, California Children's Services (CCS) filed a motion for reconsideration of the decision, for extension of time in which to reconsider the decision, and for transfer of the matter to ALJ Darrell Lepkowski. On May 23, 2012, Student filed an opposition.

APPLICABLE LAW AND DISCUSSION

The Office of Administrative Hearings (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.)

Under the Individuals with Disabilities Education Act, however, decisions issued after a special education due process hearing are final decisions. (20 U.S.C. § 1415(i); 34 C.F.R. §§ 300.514(a)(2006), 300.516(a)(2006); Gov. Code, § 56505, subd. (h).) A party aggrieved by such a decision may appeal it to a court of competent jurisdiction within 90 days of the issuance of the decision. (34 C.F.R. § 300.516(b)(2006); Ed. Code, § 56505 subd. (k).)

Once a decision is issued, OAH loses jurisdiction over the matter. (*San Jose Unified School Dist. v. Student*, OAH Case No. 20100120367 (Order Denying Request for Reconsideration and/or Appeal, March 1, 2012); *Parent v. San Juan Unified School Dist.*, OAH Case No. 2010050862 (Order Denying Requests for

Reconsideration and for Attorneys' Fees, June 3, 2011); *Educational Rights Holder v. Los Angeles County Office of Educ.*, OAH Case No. 2010110301 (Order Denying Motion for Reconsideration by California Dept. of Mental Health, May 6, 2011); *Student v. California Dept. of Mental Health*, OAH Case No. 20100110500 (Order Denying Request for Reconsideration, April 12, 2011); *Student v. California Dept. of Mental Health*, OAH Case No. 2010110500 (Order Denying Request for Reconsideration, April 12, 2011).)

CCS argues that OAH may reconsider a decision, extend its jurisdiction to reconsider a decision, and transfer the matter to another ALJ under Government Code section 11521, subdivision (b), and section 1050 of title 1 of the California Code of Regulations. However, those provisions apply only to formal Administrative Procedure Act hearings required by statute to be conducted under Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code. (See Gov. Code, § 11501, subd. (a).) A special education due process hearing is conducted under the applicable provisions of the Education Code and regulations of the State Board of Education (see Cal.Code Regs., tit. 5, §§ 3082 et seq.), and otherwise under Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. (See Gov. Code, §§ 11400.10, subd. (b); 11405.20.) The provisions relied upon by CCS are therefore inapplicable to this proceeding.

CCS has failed to establish that OAH has jurisdiction to reconsider its decision or grant the other relief it seeks.

ORDER

CCS's motion for reconsideration of the decision, for extension of time in which to reconsider the decision, and for transfer of the matter to ALJ Lepkowski is denied.

IT IS SO ORDERED.

Dated: May 30, 2012

/s/

CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings