

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012020778

ORDER DENYING STUDENT'S
MOTION FOR CLARIFICATION
AND/OR RECONSIDERATION

On August 14, 2012, Student's Mother contacted the Office of Administrative Hearings (OAH). Mother requested to speak to undersigned Administrative Law Judge (ALJ) to ask questions about the decision issued on July 23, 2012 and corrected decision issued on August 9, 2012. The undersigned ALJ did not speak to Mother in response to her telephone call to OAH. On August 15, 2012, OAH issued an order that stated that Mother could not speak to the undersigned ALJ about the decision.

On August 17, 2012, Student filed a Motion for Clarification of the decision, which was in fact a Motion for Reconsideration for Student to continue to attend Fresno High School. No response to Student's motion was filed by the Fresno Unified School District (District). However, it did not appear that Student served a copy of his motion upon the District.

APPLICABLE LAW AND DISCUSSION

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, decisions issued after an administrative due process hearing are final decisions. A party aggrieved by such an administrative decision may appeal that decision to a court of competent jurisdiction within 90 days of the issuance of the decision. (Ed. Code, § 56505 subd. (k).) Once a decision is issued OAH loses jurisdiction over the matter. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1030.)

While Student's motion requests clarification of the decision, the body of the motion makes clear that Student is seeking that the ALJ reconsider Student's contention that he may continue to attend Fresno High School. Student contends presently, and during the due hearing process, that he may continue to attend Fresno High School because Parents have not consented to the District's offer that he attend a District adult transition program.

Regardless of whether the motion is a request for reconsideration or for clarification, Student failed to establish that OAH has jurisdiction over this matter after the issuance of the final decision. Accordingly, Student's motion is denied for lack of jurisdiction.

Even if OAH retained jurisdiction, the undersigned has reviewed the final decision in light of Student's motion, and finds that there is no need for clarification as to Student's educational program if he wishes to continue to receive special education services from the District. Accordingly, Student's Motion for Clarification is without merit and is denied.

ORDER

Student's Motion for Clarification and/or Reconsideration is denied.

Dated: August 21, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings