

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 REQUEST TO
SPEAK TO ADMINISTRATIVE LAW
JUDGE

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 has not spoken to Mother in response to her telephone call to OAH.

Ex parte communications are not permitted while a due process proceeding is pending. "[W]hile special education due process hearing proceedings are pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to a hearing officer from an employee or representative of a party or from an interested person unless the communication is made on the record at the hearing." (Cal. Code. Regs., tit. 5, § 3084, subd. (a).) When an ex parte communication is received, the ALJ presiding over the matter must disclose the communication to all parties, make it part of the record, and may allow the parties an opportunity to address the matter. (Cal. Code. Regs., tit. 5, § 3084, subds. (c) – (e).)

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. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1030; Ed. Code, § 56505 subd. (k).) Once a decision is issued OAH loses jurisdiction over the matter.

Mother's request to speak to undersigned ALJ constitutes an attempt to make prohibited ex parte contact, and she is informed that no person from OAH is permitted to discuss with her the questions she has about the decision. Additionally, OAH lacks jurisdiction in this matter because it has issued a final decision in this matter. Accordingly,

Mother is directed to contact a person on the attached list of free or low cost attorneys and advocates if she has particular questions regarding the decision.

IT IS SO ORDERED.

Dated: August 15, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings