

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASO ROBLES JOINT UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011020014

ORDER DENYING MOTION TO
REOPEN AND SUPPLEMENT RECORDS

Administrative Law Judge (ALJ) Adeniyi Ayoade, State of California, Office of Administrative Hearings (OAH), heard this matter in Paso Robles, California, on April 5-8, and June 1-3, 2011. At the close of the hearing, the parties requested and were granted a continuance in order to file written closing briefs. District and Student timely filed their closing briefs on June 20, 2011.

On June 21, 2011, Attorney for Student, Andrea Marcus, filed a motion to reopen and supplement the record with a letter dated May 18, 2011, written by District to Parents regarding Parents' request to change Student's school site back to Kermit King. Student contends District did not provide Parents the letter until after the hearing in this matter had concluded. District opposed the motion to reopen.

The issues in this matter, pertinent to the newly offered evidence, concern whether the individualized education programs (IEPs) were designed to confer a meaningful benefit to Student at the time that the IEPs were developed. The May 18, 2011 letter does not reveal any information that was available to the IEP team at the time of the development of the IEPs. Accordingly, the letter is not relevant to the issues before the undersigned. To the extent the letter may be considered a proposed change in placement by District to its last IEP offer, the alleged proposed change occurred after the filing of this matter and is not an issue raised in the complaint. Therefore, it is not an issue for determination in this action.

Further, Student's argument that the May 18, 2011 letter could be used for impeachment purpose is not persuasive. Student contends that because certain testimonies at the hearing represented that Bauer Speck continued to be appropriate for Student, this letter showing that District has agreed to move Student back to Kermit King contradicted those testimonies. The May 18, 2011 letter concerns District's approval of Parents' request to enroll Student at his local school. It is not an IEP offer and does not contain any information regarding Student's special education placement and services should he attend Kermit King. Student's issues in this matter concern special education placement and services and are not

restricted to the school site location. Therefore, a letter allowing Student to enroll at Kermit King, without any additional information regarding his special education placement and services is not necessarily contradictory to the evidence presented through District's witnesses. Therefore, Student's request to reopen and supplement the record is denied.

ORDER

Student's request to reopen and supplement the record is denied.

IT IS SO ORDERED.

Dated: June 30, 2011

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings