BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017100838
v.	ORDER DISCLOSING STUDENT'S EX PARTE COMMUNICATION TO MENIFEE UNION SCHOOL DISTRICT AND NOTICE OF NO ACTION
MENIFEE UNION SCHOOL DISTRICT.	

On May 10, 2018, the Office of Administrative Hearings received from Student's parent a Request for Review of Decision before Filing Appeal in the above referenced case. It does not appear that Parent provided Menifee Union School District's attorney with a copy of this motion.

The May 10, 2018 motion filed by Parent on behalf of Student is deemed an ex parte communication during the pendency of the proceedings in the above captioned case.

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 administrative law judge presiding over the matter must disclose the communication to all parties, make it part of the record, and allow the parties an opportunity to address the matter within 10 days of receipt of the notification of communication. (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. (Ed. Code, § 56505 subd. (k).) Once a decision is issued OAH loses jurisdiction over the matter.

Here, the ex parte communication was made to OAH with the expectation that the Administrative Law Judge assigned to hear this matter would read the document and intended to affect the conduct of the hearing. As such, it must be disclosed to all parties, and made a part of the record. This Notice therefore discloses the communication to District.

Further, Parent requests that the Presiding Administrative Law Judge review the March 21, 2018 decision in this matter. Parent wishes that OAH confirm Parent's position

that Administrative Law Judge Kara Hatfield made incorrect findings of fact and legal conclusions in her decision. As the decision is final, OAH cannot reconsider its prior decision and change the findings of fact and legal conclusions as Parent requests.

The May 10, 2018 motion shall be attached to this Notice and shall be made part of the record in this matter. The undersigned has taken no actions based upon the allegations contained in May 10, 2018 request, and OAH shall take no action in response to the motion as Parent did not serve a copy of the motion on District's attorney, other than to remind Parent that a copy of any document submitted to OAH must also be provided to District's counsel at the same time. Finally, OAH lacks jurisdiction to reconsider March 21, 2018 decision.

IT IS SO ORDERED.

DATE: May 11, 2018

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings