BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. NEWPORT-MESA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016090101 ORDER DENYING REQUEST TO AMEND DECISION AND NOTICE OF NO ACTION

On March 14, 2017, the undersigned administrative law judge issued a decision in the above-captioned case. On June 1, 2017, Student filed a request to amend the ruling, asking that OAH amend the order in the decision to name specific assessors, chosen by Student, to conduct the assessments. On June 6, 2017, Newport-Mesa filed an opposition to Student's request.

APPLICABLE LAW

The Office of Administrative Hearings 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.)

However, reconsideration is not available after a decision has issued. Under the Individuals with Disabilities Education Act (20 U.S.C. § 1400, et seq.), 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.

DISCUSSION

Request to Amend Order

Student seeks an amendment of the order in this case in response to difficulties arranging for independent educational evaluations with her chosen assessors. The order in this case directs Newport Mesa to supply Student's Mother with a copy of the district's

assessment guidelines with which Mother was directed to comply. Newport-Mesa was then ordered to contract with Mother's chosen assessors without delay.

The request to amend the order is not accompanied by a sworn declaration by Mother stating any basis on which the order could be amended such as the presence of a clerical error. Newport –Mesa opposes the request on the grounds that there is no provision for requesting amendment of a final order.

Documents filed by Newport-Mesa indicate that Student first asked for the District to contract with Dr. Mack on May 24, 2017. No documents indicate when the first request to approve a contract with Speech Pathologist Natalie Neal was made. However, email provided by Newport-Mesa indicates that Student may not have provided full contact details for Ms. Neal initially, causing a short delay in contracting that was not within Newport-Mesa's control. Dr. Mack has informed Newport-Mesa that she does not contract with school districts, a fact that is not within Newport-Mesa's control. Student has asserted no legal basis which would permit the order included with the decision to be amended. Therefore, the request to amend the order is DENIED. Both parties are expected to comply with the order contained in the decision previously issued.

Attempt to File Additional Documents with OAH

In addition to the June 1, 2017 letter from Mother, on June 6, 2017, Mother also filed Curriculum vitae for Dr. Mack and Ms. Neal, a tuition request by Student, and an email complaining of a violation of Student's privacy by Newport-Mesa staff. None of these documents were authenticated or accompanied by proof of service on Newport-Mesa. The tuition request and privacy infringement complaint do not appear related to the issue of the request that the order be amended to identify specific assessors.

Mother has been referred to the rules regarding communication with OAH in the past. She has been directed to the Special Education Handbook, available on OAH's website, for assistance in properly preparing documents, the requirement that all documents filed with OAH be accompanied by a declaration proving that the document was also served on Newport-Mesa, as well as the limitations on *ex parte* communications with OAH. Newport-Mesa may have received some or all of these documents. The fact that Newport-Mesa responded to OAH makes it more likely than not that it did receive copies of the communications. However, that does not eliminate Mother's responsibility to follow the rules. Should Mother believe Student has additional claims that need to be raised, Mother should consult the Special Education Handbook and other available resources on the OAH website that outline the procedures for raising special education claims. Alternatively, Mother should seek the assistance of counsel. Student is advised that NO ACTION shall be taken on the other documents filed on June 6, 2017.

ORDER

1. Student's request to amend the decision is denied.

2. No action will be taken by OAH in regards to other documents filed by Student on June 6, 2017.

IT IS SO ORDERED.

DATE: June 12, 2017

/s/
PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings