BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: OAKLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017030950
PARENT ON BEHALF OF STUDENT, v. OAKLAND UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017050146 ORDER DENYING DISTRICT'S MOTION TO COMPEL AND/OR GRANT ADDITIONAL RELIEF

On September 21, 2017, the undersigned administrative law judge issued a final expedited decision in this matter, finding that Oakland Unified School District's proposed interim alternative educational setting of Highland Academy constitutes an appropriate interim setting for Student for not more than 45 school days.[1] On September 27, 2017, Oakland filed a pleading entitled "Motion for Order to Compel Parent Authorization for IAES Placement." The motion is supported by a sworn declaration of Oakland's counsel and alleges that Parent has refused to sign paperwork required by Hayward Unified School District and Highland Academy to allow Highland to serve Student.[2] Oakland seeks an order compelling Parent to complete the necessary paperwork or, in the alternative, an order that

[1] On August 23, 2017, the undersigned issued a final expedited decision in this matter that determined that maintaining Student's current educational setting at Sequoia Elementary School would result in substantial risk of injury to Student and to others. The August 2017 expedited decision also determined that Oakland's initially proposed interim alternative settings were not appropriate for Student and delineated the necessary components of an appropriate alternative setting for Student and ordered Oakland to identify a setting consistent with those criteria. The expedited matter was continued and the record was reopened for determination of an appropriate interim alternative educational setting for Student.

[2] Highland Academy is a public school within the Hayward Unified School District.

Oakland shall have no responsibility to provide Student with a placement and services until Parent consents to the interim placement at Highland. Student has not filed a response.

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, 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.) As discussed below, decisions are treated differently than rulings on motions.

Under the Individuals with Disabilities Education Act, decisions issued after an administrative due process hearing are final decisions and binding on all parties. (Ed. Code, § 56505, subd. (h).). 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. (20 U.S.C. § 1415(i); 34 C.F.R. §§ 300.514 and 300.516 (2006); Ed. Code, § 56505 subd. (k).) No federal or state special education statutes or regulations provide for reconsideration of a decision issued following a due process hearing. 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.) OAH does not have jurisdiction to enforce its decisions. (*Id.* at 1029.) OAH orders may be enforced in a court of competent jurisdiction, or through a compliance complaint to the California Department of Education. (Ed. Code, § 56505, subd. (k); see, Cal. Code Regs., tit. 5, § 4650, subd. (a)(7)(B).)

DISCUSSION

The undersigned previously determined that: (1) maintaining Student's educational placement at Sequoia will result in a substantial risk of injury such that she requires an immediate interim educational setting for not more than 45 school days; (2) Highland Academy constitutes an appropriate interim setting for Student so long as Oakland provides appropriate bus transportation including a one-to-one aide for Student during transit; and (3) Oakland may change Student's placement to Highland so long as Highland is willing to accept Student. OAH has issued a final expedited decision in this case and no longer has jurisdiction over the expedited portion of this matter including granting any additional relief related to Student's interim alternative educational setting.[3]

Nothing in this Order prohibits Oakland from filing a new request for due process if Oakland seeks additional relief relating to Student's interim alternative educational setting or

[3] The non-expedited matter is scheduled for hearing beginning October 17, 2017, with a prehearing conference on October 2, 2017.

any new dispute that has arisen between the parties. OAH has no statutory or regulatory authority to alter the terms of a final decision based on factual developments subsequent to that decision. Accordingly, Oakland's motion is denied for lack of jurisdiction.

ORDER

1. Oakland's motion to compel Parent to authorize Student's placement at Highland Academy is denied.

2. Oakland's request for an additional order relieving it of any responsibility to provide Student with a placement and services until Parent consents to the interim alternative educational setting is denied without prejudice.

3. All prior Orders remain in full force and effect.

DATE: September 29, 2017

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Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings