

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2013060620

ORDER DENYING REQUEST TO  
REOPEN CASE

On February 5, 2014, Administrative Law Judge Judith Pasewark issued a final Decision in this matter. On July 21, 2015, Tania L. Whiteleather, attorney for Student, filed a letter with the Office of Administrative Hearings requesting that OAH pay for a “re-do” of the testimony of Dr. Nancy Markel, a witness in the hearing in this matter. Ms. Whiteleather’s letter also references OAH Case No. 2012070601, another matter for the same Student. However, OAH Case No. 2012070601 resolved prior to a hearing, therefore OAH is treating the letter as a motion in the above captioned case only. Based upon the assertions in Ms. Whiteleather’s letter, OAH is treating the request as a request to reopen this matter.

After the issuance of the Decision in this matter, Student filed an appeal of the Decision and requested transcripts of the hearing from OAH. In reviewing the transcript it was discovered that a portion of the audio recording of the hearing, Dr. Markel’s testimony, was missing. When Student informed OAH of this, OAH reviewed the recordings, confirmed the missing recording, and provided a declaration to that effect. Student now moves to reopen the hearing and requests OAH pay for the attendance of Dr. Markel to recreate the missing portion of her testimony.

Upon the issuance of a final decision in a matter, OAH no longer has jurisdiction over that matter under the Individuals with Disabilities Education Act; and, Student has provided no contradictory authority to support continued jurisdiction by OAH.<sup>1</sup> Therefore, Student's request to reopen the matter for further testimony is denied.

IT IS SO ORDERED.

DATE: July 22, 2015

/s/

---

BOB N. VARMA  
Division Presiding Administrative Law Judge  
Office of Administrative Hearings

---

<sup>1</sup> Ms. Whiteleather contends that in another matter OAH recalled an expert and paid for that expert's time when the testimony was not properly recorded. However, Ms. Whiteleather provides no case name or number. Furthermore, she provides no information as to whether a final decision had been issued in that matter prior to OAH recalling a witness for further testimony at OAH's expense.