

**ISSUE:**

Should the above referenced proceeding be dismissed for lack of jurisdiction?

**FINDINGS OF FACT:**

1. The issues as presented when this due process hearing was requested were:
  - “1) Change of placement through graduation without an appropriate PPT meeting.
  - 2) Continuing a PPT meeting without the parents in attendance.” Letter dated July 27, 1999 to Tom Badway from parents’ attorney.
2. The Board moved to dismiss for lack of jurisdiction. Both parties submitted briefs on the issue.
3. The parties in this action were also the parties in Case #98-121 which resulted in Final Decision and Order #98-121. Final Decision and Order #98-121.
4. Final Decision and Order #98-121 reads in part: “On July 23, 1998, the first day of the hearing, the parties informed the hearing officer that they had reached a settlement agreement and made a joint motion that the hearing office adopt it as decision and order of the case. At the request of the parties and after querying both parties and assuring that the agreement was understood and agreed upon, the motion was granted. Both parties were represented by legal counsel.” Final Decision and Order #98-121.
5. The hearing officer entered as the Final Order and Decision Case #98-121 the agreement between the parties as the “Stipulated Order”. Final Decision and Order #98-121.
6. The second enumerated section of the “Stipulated Order” reads: “2) E. shall receive her diploma and graduate at the end of the 1998-1999 school year at which time the BOARD’S responsibility for all future programming for E. shall cease.” Final Decision and Order #98-121.

**CONCLUSIONS OF LAW:**

1. The issue of the student’s graduation was determined by the Final Decision and Order in Case #98-121.
2. For the purpose of this decision it is immaterial whether or not that Final Decision and Order was based on an agreement between the parties. The critical fact is that it was a Final Decision and Order.
3. A hearing officer has no authority to modify or overrule a Final Decision and Order of another hearing officer.

4. The cases cited by the parents in their brief, objecting to dismissal of this proceeding, do not contradict the above conclusions.
5. Even if in fact that the Board continued a PPT meeting after the parents left, that does not impact on that portion of the Final Decision and Order in Case #98-121 mandating graduation.

**FINAL DECISION AND ORDER:**

THIS HEARING IS **DISMISSED** FOR LACK OF JURISDICTION.