

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ORANGE COUNTY DEPARTMENT OF
EDUCATION

v.

ORANGE COUNTY HEALTH CARE
AGENCY

OAH CASE NO. 2010120783

ORDER DENYING REQUEST FOR
BRIEFING SCHEDULE AND
DISMISSING REQUEST FOR
INTERAGENCY DISPUTE
RESOLUTION

On December 21, 2010, the Office of Administrative Hearings (OAH) received a request from the Orange County Department of Education (Education) to resolve an interagency dispute with the Orange County Health Care Agency (Health Care) under Government Code section 7585.¹ On January 4, 2011, OAH requested additional information from the parties, including any preliminary motions challenging threshold issues such as jurisdiction.

On January 6, 2011, Health Care submitted a proposed briefing schedule and request for hearing. Health Care indicated it did not consent to OAH's jurisdiction over the issues presented, made a special appearance, and reserved its right to challenge both subject matter and personal jurisdiction. It proposed a scheduled for it to file its opposition and other motions and for Education to respond, a hearing date, and a deadline for decision. On January 7, 2011, Education joined in Health Care's proposed schedule and request for hearing. Neither party filed any motions. The parties' request for a briefing scheduled is denied.

An administrative tribunal, like a court, has jurisdiction to determine its own jurisdiction and power to act. (See *People v. Williams* (2005) 35 Cal.4th 817, 824.) Education filed this matter under section 7585, which governs OAH's jurisdiction.

Section 7585 provides two avenues for an interagency dispute to be filed with OAH. First, subdivision (c) provides that if the Superintendent of Public Instruction (Superintendent) and the Secretary of the California Health and Welfare Agency (Secretary) cannot resolve the dispute within 15 days of receiving it, the Superintendent and Secretary may jointly submit the request to OAH. Second, subdivision (e) provides that if a party is dissatisfied with the Superintendent's and Secretary's resolution, the party may appeal to

¹ All citations are to Government Code section 7585 unless otherwise noted.

OAH. There is no authority for a party to an interagency dispute to file with OAH prior to action by the Superintendent and Secretary.

Education acknowledged in its request for interagency dispute resolution that the Superintendent and Secretary did not act upon the request Education stated it filed with them in November 2010. Since the Superintendent and Secretary have not issued their resolution of the matter, OAH does not have jurisdiction to hear this dispute. Accordingly, this matter is dismissed.

It is so ordered.

Date: January 18, 2011

Judith A. Kopec
Presiding Administrative Law Judge