

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

RED BLUFF ELEMENTARY SCHOOL
DISTRICT, RED BLUFF JOINT UNION
HIGH SCHOOL DISTRICT, ANTELOPE
ELEMENTARY SCHOOL DISTRICT,
TEHAMA COUNTY DEPARTMENT OF
EDUCATION AND TEHAMA COUNTY
HEALTH SERVICES AGENCY.

OAH CASE NO. 2011031548

ORDER GRANTING MOTION TO
DISMISS

On March 29, 2011, Student filed a Request for Mediation and Due Process Hearing (complaint), naming the above named parties as respondents. All the parties except Tehama County Health Services Agency (TCHSA) settled at mediation. Pursuant to the settlement agreement, Student seeks to dismiss those parties. On May 26, 2011, Student filed a notice of settlement and a request to dismiss those parties.

On May 31, 2011, TCHSA filed an opposition stating that the essential parties to the case cannot be dismissed pursuant to a mediated agreement, and must remain involved in the litigation.

On June 1, 2011, Student filed a Response. On June 2, 2011, Tehama County DOE, Red Bluff UESD, and Antelope ESD all joined in Student's request for dismissal and replied to TCHSA's opposition. On June 2, 2011, TCHSA filed a reply.

APPLICABLE LAW

Parents have the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) OAH has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act (IDEA). (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029 [hereafter *Wyner*].)

A student who has been determined to be an individual with exceptional needs or is suspected of needing mental health services may, after the Student's parent has consented, be

referred to a community mental health service in accordance with Government Code section 7576 when the student meets criteria for referral specified in California Code of Regulations, title 2, section 60040, and the school district has, in accordance with specific requirements, prepared a referral package and provided it to the community mental health service. (Ed. Code, § 56331, subd. (a); Cal. Code Regs., tit. 14, § 60040, subd. (a).)

DISCUSSION

At mediation, Student settled all claims arising from his DPR with the exception of those against TCHSA. As such, there are no longer a justiciable controversy arising from the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education as to those respondents, and OAH has no further jurisdiction over resolved matters.

ORDER

Student's motion to dismiss is granted as to Red Bluff ESD, Red Bluff JUHSD, Antelope ESD, and Tehama County DOE. TCHSA shall remain a respondent.

Dated: June 03, 2011

/s/

DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings