BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGUITO UNION HIGH SCHOOL DISTRICT ET AL.	OAH CASE NO. 2011070189 ORDER GRANTING NORTH COASTAL CONSORTIUM FOR SPECIAL EDUCATION'S MOTION TO DISMISS

On July 06, 2011, parent on behalf of Student (Student) filed a Request for Due Process Hearing (complaint), naming the San Dieguito Union High School District (District), North Coastal Consortium for Special Education (NCC), and the Solana Beach School District (Solana) as respondents. In the complaint, Student argues that he has been denied a free appropriate public education in that he was placed at a moderate/severe special day class (SDC) at Oak Crest School instead of an SDC at Earl Warren Middle School, which is closer to Student's home. Student claims that placement at Oak Crest is not appropriate because of Student's medical condition requires that he be located close to his residence. Student also avers that the Individualized Education Program (IEP) team had predetermined placement at Oak Crest prior to the IEP team meeting. On August 9, 2011, Student dismissed Solana.

On August 26, 2011, NCC filed a Motion to Dismiss, alleging that it did not provide special education and related services to Student, which was the sole responsibility of the District. NCC contends that it is the special education local planning agency which comprises a number of school districts including the District. As part of it service to its member districts, NCC provides program specialists, including Cathy Funke, to assist in the IEP process and facilitate IEP meetings. When the NCC program specialists participate in the IEP process, they do so as a representative of the District and not on behalf of NCC. (Declaration of J. Bruce Kremer, NCC senior director).

On August 29, 2011, the District filed with OAH a statement of non-opposition to NCC's motion.

On August 29, 2011, Student filed an opposition to NCC's motion. In his opposition, Student contends that NCC is a proper party as the SDC program at both Oak Crest and Earl Warren are programs run by NCC, who decides which location a student attends.

On August 31, 2011, the parties orally argued NCC's motion at the first day of the due process hearing. Counsel for the District stated that the District is the sole entity that

determines placement and that at all times, Cathy Funke was acting as a District representative. NCC reiterated that its only role is to provided to its member school districts program specialists who operate as representatives of the school districts they are assigned to. Both NCC and the District stated that only the District could provide the remedy requested by Student in his due process request. Student did not offer any evidence to counter the District's contentions.

Based upon the contentions raised by the District in support of NCC's position, NCC's motion to dismiss is granted.

IT IS SO ORDERED.

Dated: September 6, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings