

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ASPIRE TITAN ACADEMY CHARTER
SCHOOL; CALIFORNIA STATE BOARD
OF EDUCATION.

OAH CASE NO. 2011120155

ORDER GRANTING CALIFORNIA
STATE BOARD OF EDUCATION'S
MOTION TO DISMISS

On December 6, 2011, Student filed a Request for Due Process Hearing (complaint) naming Aspire Titan Academy (ATA) Charter School and the California State Board Of Education (SBE) as respondents.

On December 14, 2011, SBE filed a Motion to Dismiss. OAH has received no opposition. As discussed below, the Motion is granted.

APPLICABLE LAW

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to “the public agency involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).) A “public agency” is defined as “a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.)

Statewide benefit charter schools are treated as a school district for all purposes. (Cal. Code Regs., tit. 5, § 11967.6, subd. (c).) Statewide benefit charter schools are their own local educational agencies for purposes of special education and related services. (Ed. Code, §§ 47641, subd. (a) & 56026.3)

SBE is generally responsible for policy-making and adopting rules or regulations detailing how state statutes are to be implemented at the school district level. (Ed. Code, §§ 33030 and 33031, subd. (c).) SBE may also serve as the authorizing agency for a charter school. (Ed. Code, § 47605.8.)

DISCUSSION

The complaint alleges that ATA is a charter school sponsored by the California Department of Education. The complaint contains no facts about SBE, and no indication that it was a responsible public agency involved in any decisions regarding Student.

SBE's Motion to Dismiss, which is unopposed, avers that ATA is a "statewide benefit" charter school, which is treated under the law as a school district for all purposes, and which serves as its own local educational agency for purposes of special education and related services. SBE was the authorizing agency only.

Under the allegations presented here, SBE was not a responsible public agency involved in any decisions regarding Student. Therefore, SBE will be dismissed a party.

ORDER

California State Board Of Education is dismissed a party.

IT IS SO ORDERED.

Dated: December 23, 2011

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings