

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ALHAMBRA UNIFIED SCHOOL
DISTRICT,

v.

FOSTER PARENT ON BEHALF OF
STUDENT AND HACIENDA LA PUENTE
UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011120380

ORDER GRANTING MOTION TO
DISMISS

On December 14, 2011, Alhambra Unified School District (Alhambra) filed a Due Process Request (complaint) naming as respondents Foster Parent on behalf of Student (Student) and the Hacienda La Puente Unified School District (Hacienda). Alhambra seeks a determination of which school district is responsible for providing Student with education services pursuant to the residency requirements in Education Code sections 48200 and 48204, and whether Education Code section 48853.5 applies to Student.

On December 19, 2011, Hacienda filed a motion to dismiss contending that the Office of Administrative Hearings (OAH) does not have jurisdiction over the issues raised in the complaint, and secondly, that Alhambra is precluded from filing for due process against another local education agency (LEA).

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education” (FAPE), and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has 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) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Here, the dispute does not involve the IDEA nor the equivalent provisions of the Education Code (sections 56000 *et seq.*), but it involves whether there are exceptions to the residency requirements of the Education Code. In essence, this dispute would occur even had Student not been a pupil receiving special education services. Since the issue to be decided does not involve the IDEA or the equivalent portions of state law, OAH does not possess jurisdiction over the sole issue alleged in the complaint.

Additionally, Government Code section 7586, subdivision (d) bars one public agency from utilizing the dues process procedures against another public agency.

ORDER

Hacienda's Motion to Dismiss is granted. The matter is dismissed.

IT IS SO ORDERED.

Dated: December 23, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings