

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CARDIFF ELEMENTARY SCHOOL  
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012060266

NOTICE OF DISMISSAL OF  
DISTRICT'S REQUEST FOR DUE  
PROCESS

On June 4, 2012, the Cardiff Elementary School District (District) filed with the Office of Administrative Hearings (OAH) a request for due process hearing (complaint) naming the Student's parents (Parents) on behalf of Student (Student) as respondents. The complaint contains a single issue. The issue was framed that pursuant to Board policy, District contends that Student is not a legal resident of the District for purposes of determining whether the District is legally responsible for providing him a free appropriate public education (FAPE).

On June 20, 2012, the District filed its Prehearing Conference Statement. The District contends that OAH has jurisdiction because "[t]he District seeks to initiate or change the identification, assessment, or educational placement of [Student]," and "[t]hus the OAH has jurisdiction." (Complaint p. 2:19-21.)

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 District is seeking for OAH to determine whether or not Student is a resident of the District for purposes of attending District schools. In its evidence list, the

District lists Board Policy 5111.1 and [District] Administrative Regulation 5111.1(a). The District is, in effect, asking OAH to determine whether Student is qualified to attend District schools utilizing District regulations.

The question of whether this particular student is eligible to be enrolled in District schools is not an issue under the Individuals with Disabilities Education Act. The question does not involve issues of the appropriateness of an IEP nor does it involve the identification, assessment or educational placement involving the child's unique needs. The District may determine whether Student is eligible for District schooling as it does any other child who does not have an IEP. Accordingly, OAH lacks jurisdiction to hear this matter.

**ORDER**

1. OAH Case No. 2012060266 is dismissed.
2. All dates in this matter are vacated and the matter shall be closed.

Dated: June 22, 2012

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings