

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARVEY SCHOOL DISTRICT; EAST
LOS ANGELES REGIONAL CENTER.

OAH CASE NO. 2012061193

ORDER DENYING EAST LOS
ANGELES REGIONAL CENTER'S
MOTION TO DISMISS AS MOOT

On June 28, 2012, Parent, on behalf of Student, filed a Request for Due Process Hearing (complaint), naming the Garvey School District (Garvey) and the Eastern Los Angeles Regional Center (Regional Center). On July 5, 2012, Garvey filed a Notice of Insufficiency (NOI) as to Student's complaint and a request to dismiss. On July 9, 2012, the Office of Administrative Hearings (OAH) found Student's complaint to be insufficiently pled under section Title 20 United States Code 1415(c)(2)(D), and permitted Student to file an amended complaint not later than 14 days from the date of the order. OAH also ordered that if Student fails to timely file an amended complaint, the complaint will be dismissed. On July 10, 2012, Regional Center filed a motion to dismiss on the ground that it was not a proper party. On July 13, 2012, OAH denied District's request to dismiss as moot.

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.)

On July 9, 2012, OAH issued an Order finding Student's complaint to be insufficient as to both respondents, District and Regional Center. The Order granted Student 14 days leave to amend. The time for amendment has not yet expired. If Student fails to timely file an amended complaint naming Regional Center as a respondent, the Regional Center will be

dismissed. Therefore, Regional Center's July 10, 2012 motion to dismiss is moot and accordingly denied.

If Student timely files an amended complaint, and again names Regional Center as a respondent, the Regional Center may file additional motions relating to the amended complaint, such as a NOI or motion to dismiss, as it deems appropriate.

IT IS SO ORDERED.

Dated: July 17, 2012

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings