

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT AND OXFORD  
PREPARATORY ACADEMY.

OAH CASE NO. 2012070452

ORDER GRANTING DISTRICT'S  
MOTION TO DISMISS OXFORD  
PREPARATORY ACADEMY AS A  
PARTY

On July 31, 2012, the Capistrano Unified School District (District) filed a motion, on behalf of itself and Oxford Preparatory Academy (Oxford), to dismiss Oxford as a respondent in this due process proceeding.<sup>1</sup> No opposition by Student has been received.

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, . . . a nonprofit public charter school that is not otherwise included as a local educational agency and is not a school within a local educational agency, or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.)

Education Code section 47641, subd. (a), provides that if a charter school includes in its petition for establishment or renewal that it will participate as a local educational agency (LEA) in a special education plan, it is deemed a LEA for purposes of compliance with the Individuals with Disabilities Education Act (IDEA).<sup>2</sup> However, “[a] charter school that was granted a charter by a [LEA] that does not comply with subdivision (a) may not be deemed a [LEA] pursuant to this article, but shall be deemed a public school of the [LEA] that granted the charter.” (Ed. Code, § 47641, subd. (b).)

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<sup>1</sup> On July 30, 2012, District filed a combined motion to dismiss Oxford as a party and dismiss certain allegations of Student’s complaint has been superseded by the separate filing of the same motions on July 31, 2012, and will not be ruled on. This order is limited to ruling on District’s July 31, 2012 motion to dismiss Oxford as a party.

<sup>2</sup> 20 U.S.C. Sec. 1400 et seq.

## DISCUSSION

Student's due process request alleges that Oxford "is a charter school within the District," and brings claims against both District and Oxford, Student's school of attendance, for violations of the IDEA.<sup>3</sup> District moves to have Oxford dismissed as a respondent because Oxford is not a LEA within the definition of "public agency" subject to due process, but a school within District for special education purposes. In support, District submits Oxford's charter petition, which provides that "[Oxford] shall be categorized as a 'public school' within the District in conformity with Education Code Section 47641(b)," and the declaration of an attorney who represented District in the charter renewal that the petition was approved by District's board of trustees on March 8, 2011.

Student's complaint alleges, and District's evidence establishes, that Oxford is a public school within District, and not a LEA within the definition of "public agency" for purposes of being subject to due process. Therefore, Oxford Preparatory Academy will be dismissed as a party to this proceeding.

Although counsel for District has not filed a notice of representation of Oxford, this motion establishes that Oxford is a public school within District, conferring District with the authority to act on Oxford's behalf.

IT IS SO ORDERED.

Dated: August 09, 2012

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>3</sup> By concurrent order on District's motion to dismiss allegations, only Student's special education claims arising under the IDEA remain in this due process proceeding.