BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. SOQUEL UNION ELEMENTARY SCHOOL DISTRICT AND SANTA CRUZ COUNTY OFFICE OF EDUCATION.	OAH Case No. 2015060923 ORDER DENYING SANTA CRUZ COUNTY OFFICE OF EDUCATION MOTION TO DISMISS

On June 10, 2015, Parents on behalf of Student filed a Request for Due Process Hearing with the Office of Administrative Hearings naming the Soquel Union Elementary School District (School District) and the Santa Cruz County Office of Education (County Office) as respondents.

On June 23, 2015, County Office filed a motion to be dismissed as a respondent.

Student and School District did not respond to the motion.

APPLICABLE LAW AND DISCUSSION

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc…..), special education law does not provide for a summary judgment procedure.

In general, Individuals with Disabilities Education Act due process hearing procedures extend 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.) As a county office of education, County Office is a "public agency," and potentially subject to jurisdiction in this matter if it was involved in decisions regarding Student.

Student alleges that School District offered Student a placement in County Office's Emotionally Disturbed Classroom at Branciforte Middle School Campus that Student contends is not the least restrictive environment appropriate for Student. Student alleges that, in response to Parents' objections to the placement, County Office Senior Director of

Special Education wrote to Parents and "gave parents three options: accept their offer in its entirety, file for Due Process, or refuse all services." This allegation is sufficient to raise an issue as to whether County Office was involved in decisions regarding Student, and the motion to be dismissed must therefore be denied.

ORDER

County Office's Motion to Dismiss is denied. The matter will proceed as scheduled.

DATE: July 7, 2015

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings