

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SAN DIEGUITO UNION HIGH SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2016030004

ORDER GRANTING MOTION TO
DISMISS WITHOUT PREJUDICE

PROCEDURAL BACKGROUND

The San Dieguito Union High School District filed a complaint naming Parents on behalf of Student, which the Office of Administrative Hearings deemed filed as of March 8, 2016. San Dieguito raised one issue in its complaint: whether it has a right to assess Student without his parents' consent pursuant to an assessment plan dated February 1, 2016.

On May 2, 2016, Student filed a third motion to dismiss this case. Student asserted that Parents have now given unequivocal consent to District's request to assess him. Student attached a copy of the form on which Parents have indicated their consent. Student also asserted that District has already begun the assessment process. Student did not attach a proof of service on District or its attorneys with the motion he filed with OAH.

District filed an opposition to Student's motion on May 6, 2016, indicating that Student had not served it with his motion, but that it had received a copy from OAH on May 5, 2016, which District had reviewed the following day. In an order dated May 9, 2016, OAH extended District's time for filing an opposition to the motion to dismiss to 5:00 p.m. on May 10, 2016.

District has not filed an additional opposition or other response to Student's motion.

LEGAL ANALYSIS AND DISCUSSION

Under the doctrine of mootness, a court may refuse to hear a case because it does not present an existing controversy by the time of decision. (*Wilson v. Los Angeles County Civil Service Com.* (1952) 112 Cal.App.2d 450, 453.) However, mootness is not a jurisdictional defect. (*Plymouth v. Superior Court* (1970) 8 Cal.App.3d 454, 460.) A case may be moot when the court cannot provide the parties with effectual relief. (*MHC Operating Ltd. Partnership v. City of San Jose* (2003) 106 Cal.App.4th 201, 214.) An exception to the

mootness doctrine is made if a case presents a potentially recurring issue of public importance. (*DiGiorgio Fruit Corp. v. Dept. of Employment* (1961) 56 Cal.2d 54, 58.)

District's complaint seeks an order from OAH that it be permitted to assess Student without his parents' consent. Parents have since given unequivocal consent to the assessment. District does not contest the facts as presented by Student in his motion to dismiss. Therefore, no present controversy exists between the parties regarding District's ability to assess Student or the necessity for conducting the assessments. There is no longer an issue for OAH to decide or additional remedy for OAH to order. Student's motion to dismiss is therefore granted, without prejudice.

ORDER

District's case is dismissed. All dates are vacated.

DATE: May 12, 2016

DocuSigned by:

Darrell Lepkowsky

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DARRELL LEPKOWSKY

Administrative Law Judge

Office of Administrative Hearings