

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACADEMY OF ARTS AND SCIENCES  
AND ACTON-AGUA DULCE UNIFIED  
SCHOOL DISTRICT.

OAH Case No. 2016040151

ORDER GRANTING ACTON-AGUA  
DULCE UNIFIED SCHOOL  
DISTRICT'S MOTION TO DISMISS

On March 30, 2016, Student filed a Request for Due Process Hearing (complaint) against Academy of Arts and Sciences, Acton-Agua Dulce Unified School District, and El Dorado County Charter Special Education Local Plan Area. On April 7, 2016, OAH granted El Dorado's motion to be dismissed as a party.

On April 15, 2016, District filed a Motion to Dismiss, alleging that it was not the public agency responsible for providing Student with a free appropriate public education or, in the alternative, that Student had failed to serve the complaint upon District. District served its motion on Student but not on the Academy. On April 19, 2016, Student filed a non-opposition to District's motion. Academy did not file a response.

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, 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.)

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education", 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.)

In general, IDEA 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.)

California Education Code sections 47640, et seq., provide that a charter school may serve independently as a local education agency and must provide special education services as would any public school.

## DISCUSSION

Student’s complaint alleges that he was denied a FAPE, beginning in late Spring 2014 when he was denied admission into a charter school, managed by and affiliated with the Academy and chartered by District. Student alleges that District was the local educational agency responsible for providing a FAPE to Student.

District contends that it was not the local educational agency responsible for Student’s FAPE. District supported its motion with a declaration of Amanda Fischer, District’s Director of Charters and Special Education, signed under penalty of perjury. Ms. Fischer declared that District chartered the Academy but that Academy sought local educational agency status and sole responsibility for FAPE in its petition to be a charter school.

Student filed a non-opposition to District’s motion. Academy did not file a response but Student’s proof of service did not list Academy as a party to be served. Considering Student’s non-opposition, and District’s declaration regarding Academy’s status as a local educational agency solely responsible for Student’s FAPE, District’s motion is granted without prejudice to Student’s right to amend the complaint if it has facts to support claims against District.

ORDER

District's Motion to Dismiss is granted, and it is dismissed as a party in the above-entitled matter. The matter shall proceed as scheduled against Academy of Arts and Sciences.

DATE: April 25, 2016

DocuSigned by:

*Caroline Zuk*

CAROLINE A. ZUK

Administrative Law Judge

Office of Administrative Hearings