

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND CALIFORNIA
DEPARTMENT OF EDUCATION.

OAH CASE NO. 2009060483

ORDER GRANTING MOTION TO
DISMISS CALIFORNIA
DEPARTMENT OF EDUCATION AS A
PARTY

On June 08, 2009, Parents filed with the Office of Administrative Hearings (OAH) a due process hearing request (Complaint) on behalf of Student naming Los Angeles Unified School District (District) and California Department of Education (CDE) as respondents.

On June 16, 2009, Katherine Starn Legrand, Deputy General Counsel for CDE, filed a Motion to Dismiss CDE as a party (Motion). On June 18, 2009, District filed a Non-Opposition to CDE's Motion. OAH has received no response from Parents.

APPLICABLE LAW AND DISCUSSION

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).)

A public education agency involved in any decisions regarding a student may be involved in a due process hearing. (Ed. Code, § 56501, subd. (a).) A public education agency is defined as any public agency, including a charter school, responsible for providing special education or related services. (Ed. Code, §§ 56500, 56028.5.) Education Code sections 56500 and 56501, subdivision (a), establish two requirements for including an entity in a special education due process hearing. First, the entity must be a public agency “providing special education or related services.” (Ed. Code, § 56500.) Second, it must be “involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).)

Student's Complaint alleges that CDE violated Student's right to a FAPE by "denying appropriate funding to the District to provide services." Student also asserts that CDE is liable for the acts of the District. All of the factual allegations in the Complaint relate to District's alleged failure to comply with a March 12, 2009 Settlement Agreement between Student and District. Student fails to allege facts to establish that: CDE is a public agency providing special education services to Student; and CDE made decisions regarding Student's special education program. Accordingly, CDE is not an appropriate party.

ORDER

1. The motion to dismiss CDE as a party is granted.
2. CDE is dismissed as a party in the above-entitled matter.
3. The matter shall proceed as scheduled against the remaining respondent, District.

It is so ordered.

Dated: June 23, 2009

/s/

CLARA SLIFKIN
Administrative Law Judge
Office of Administrative Hearings