

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT, DESERT MOUNTAIN SELPA,
HIGH TECH HIGH MEDIA ARTS AND
THE GARY AND JERRI-ANN JACOBS
HIGH TECH HIGH.

OAH CASE NO. 2011030598

ORDER GRANTING SAN DIEGO
UNIFIED SCHOOL DISTRICT'S
MOTION TO DISMISS

On March 8, 2011, Student filed a request for due process hearing (complaint) naming as respondents the San Diego Unified School District (SDUSD), Desert Mountain Special Education Local Planning Area (DM), and High Tech High Schools and High Tech High Media Arts (High Tech collectively). In her complaint, Student alleges that she is attending Media Arts. She also alleges that she resides within the boundaries of SDUSD.

On March 18, 2011, SDUSD filed a motion to dismiss on grounds that Student did not attend a school within SDUSD during all times referred to in the complaint.¹ Student nor the other respondents filed an opposition to the motion.

FACTUAL FINDINGS

SDUSD attached seven exhibits to its motion. Several of these were documents demonstrating that High Tech is a charter school chartered by DM, including an agreement between High Tech and SDUSD for services. Another was a June 11, 2004 letter to High Tech parents from Larry Rosenstock, High Tech's principal and Chief Executive Officer, announcing that High Tech was now chartered under DM. Also in support of the motion, SDUSD provided a declaration from Nancy Batinica, a diagnostic resource teacher from SDUSD, which related a telephone conversation with Student's parent. In that conversation, the parent acknowledges that SDUSD is not a proper party as High Tech is chartered by DM.

APPLICABLE LAW

¹ The complaint contains allegation which occurred during school years 2009-2010 and 2010-2011.

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.) Here, SDUSD is not the public agency involved in any decisions regarding Student. Thus, SDUSD’s motion is GRANTED.

ORDER

SDUSD’s Motion to Dismiss is granted. SDUSD is dismissed as a party in the above-entitled matter. The matter will proceed as scheduled against the remaining parties.

IT IS SO ORDERED.

Dated: March 28, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings