

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

EDUCATIONAL REPRESENTATIVE ON
BEHALF OF STUDENT,

v.

COUNTY OF SACRAMENTO, CHILD
PROTECTIVE SERVICES.

OAH CASE NO. 2012020586

ORDER FOR SUPPLEMENTAL
BRIEFING ON MOTION TO DISMISS

On February 16, 2012, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming County of Sacramento, Child Protective Services (CPS). On February 28, 2012, CPS filed a Motion to Dismiss, alleging that it is not a proper party to this action because it is not a responsible public agency under special education laws. On March 1, 2012, Student filed an opposition. Additional information is required before a ruling may be made on the pleadings.

ORDER

Within five business days of this order, each party shall provide information and briefing regarding the following, and include sworn declarations, and applicable individualized education programs and orders of the juvenile court, supporting any factual assertions included in its briefing.

1. The parties shall brief the legal issue of whether CPS is a public agency pursuant to 34 Code of Federal Regulations, parts 300.33 (2006), and California Education Code, section 56501, subdivision (a), as discussed in *Student v. California Department of Mental Health* (October 26, 2009) Cal.Ofc.Admin.Hrngs. Case No. 2009050920; and *Student v. Mt. Diablo Unified School District County of Sacramento Probation Department, et al*, (June 2, 2009) Cal.Ofc.Admin.Hrngs. Case No. 2009050043.

2. The parties shall brief whether the issue of CPS is a public agency should be bifurcated for hearing from the issue of whether CPS denied Student a free appropriate public education.

IT IS SO ORDERED.

Dated: March 5, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings