

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

EASTSIDE UNION SCHOOL DISTRICT,
TAHOMA CHARTER SCHOOL, ALUM
ROCK SCHOOL DISTRICT, SANTA
CLARA COUNTY OFFICE OF
EDUCATION.

OAH CASE NO. 2012110722

ORDER GRANTING SANTA CLARA
COUNTY OFFICE OF EDUCATION'S
MOTION TO DISMISS

On November 21, 2012 Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings (OAH) naming the Eastside Union High School District (Eastside). On December 5, 2012, Eastside filed a Notice of Insufficiency (NOI) as to Student's complaint. On December 7, 2012, OAH granted Eastside's NOI and gave Student 14 days to file an amended complaint.

On December 20, 2012, Student filed an amended complaint, naming Eastside, Tahoma Charter School (Tahoma), Alum Rock School District (Alum Rock), Santa Clara County Office of Education (SCCOE). On December 28, 2012, SCCOE filed a Motion to Dismiss, alleging that it is not a responsible public agency for Student's special education services. Student, Eastside, Tahoma, and Alum Rock 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.)

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.) Children with disabilities who attend public charter schools retain all rights under federal and State special education law. (34 C.F.R. § 300.209(a); Ed. Code, § 56145.)]

DISCUSSION

In the present matter, SCCOE contends that Student's amended complaint should be dismissed against it as it had no legal responsibility to provide Student with special education services and did not provide any such service to Student. The amended complaint's only contention against SCCOE is that it chartered Tahoma. However, Student does not allege any facts or legal arguments that SCCOE was legally responsible to provide Student with special education services, or in fact did provide any such service. Therefore, SCCOE's motion to dismiss is granted as the amended complaint does not allege any facts that SCCOE is a responsible public agency.

ORDER

SCCOE's Motion to Dismiss it as a party is granted. SCCOE is dismissed as a party in the above-entitled matter, and the matter will proceed as scheduled against the remaining parties.

IT IS SO ORDERED.

Dated: January 9, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings