

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT AND CALIFORNIA  
DEPARTMENT OF EDUCATION.

OAH CASE NO. 2013080126

ORDER GRANTING CALIFORNIA  
DEPARTMENT OF EDUCATION'S  
MOTION TO DISMISS

On August 1, 2013, Parent on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) naming the Los Angeles Unified District (LAUSD) and the California Department of Education (CDE) as respondents. On August 13, 2013, CDE filed a motion to dismiss the amended complaint. No opposition to the motion has been received by OAH.

APPLICABLE LAW

Special educations 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.)

California law places the primary responsibility for providing special education to eligible children on the local education agency (LEA), usually the school district in which the parents of the child reside. (See, e.g., Ed. Code §§ 56300, 56340 [describing LEA responsibilities].) The law also contemplates that, when a parent disputes the educational services provided to the special needs child, the proper respondent to the due process hearing request is the LEA. (See, e.g., Ed. Code, 56502, subd. (d)(2)(B) [LEA’s response to due process complaint].) Only in unusual circumstances does California law deviate from that statutory scheme to require a different entity to provide those services.

Although CDE has general oversight responsibility for special education in California, it is not usually a proper respondent in a due process case under IDEA, because it is not a provider of special education services to children. (Ed. Code § 56501, subd. (a).) An

exception to this general rule involves the children in the state schools for the deaf or blind. (Ed. Code, §§ 59002; 59102.)

### DISCUSSION

Student's complaint contains a single issue. Student contends that "[s]chool and parent not in agreement of IEP." Student alleges that "Parent requesting Occupational Therapy [OT] to be incorporated into the IEP."

Parent does not allege that CDE provided any educational services to Student or was involved with Student's education as an LEA. The general oversight authority of CDE is not sufficient to sustain a due process complaint.

Parent's allegations against CDE are beyond the limited jurisdiction of OAH in a due process case. A due process case looks at an individual offer of placement and services to see if it would provide a child with a FAPE.

### ORDER

The motion is granted. The California Department of Education is hereby dismissed from this action.

IT IS SO ORDERED.

Dated: August 20, 2013

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings