

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAMBRIAN SCHOOL DISTRICT.

OAH Case No. 2014090680

ORDER VACATING THE FIRST DAY
OF HEARING AND SETTING A
PREHEARING CONFERENCE TO
ADDRESS THE ISSUE OF
JURISDICTION

On September 17, 2014, Student filed a Request for Due Process and Mediation (complaint) with the Office of Administrative Hearings, naming Cambrian School District as the respondent. On September 29, 2014, Cambrian filed a motion to dismiss Student's complaint, alleging that the claims were barred by an August 12, 2013 Settlement Agreement between Cambrian and Student. Student filed an opposition to Cambrian's motion on October 1, 2014. On October 3, 2014, Office of Administrative Hearings issued an order denying Cambrian's motion to dismiss without prejudice and bifurcating the issues listed in the complaint.

An ALJ may raise an issue of jurisdiction sua sponte at any time during the course of a proceeding. As such, this administrative law judge has determined that additional discussions regarding the issue of jurisdiction are necessary, prior to beginning the hearing in this matter. Therefore, the first day of hearing, February 4, 2015, will be vacated so that a telephonic prehearing conference may be held on February 4, 2015 at 10:00 AM. The focus of the Prehearing Conference will be on whether OAH has jurisdiction to decide the issue of whether an unforeseen and significant change has occurred in Student's circumstances resulting in a dramatic change in Student's educational needs, as outlined in section 3(d) of the Settlement Agreement of August 12, 2013. Specifically, does OAH have jurisdiction to determine if a contract between two parties is null and void, in part or in whole, because of a triggering clause in the contract.

Any witness, who is unable to attend the hearing due to the decision to vacate the first day of hearing, will be accommodated upon resolution of the jurisdiction issue.

ORDER

1. The first day of hearing, February 4, 2015, is vacated. The first portion of the bifurcated hearing is continued to February 5, 2015.

2. A telephonic Prehearing Conference is scheduled for February 4, 2015, at 10:00 AM. The parties should be prepared to argue their respective positions regarding whether OAH has jurisdiction in this case.

IT IS SO ORDERED.

DATE: February 3, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings