

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT AND ORANGE
COUNTY HEALTH CARE AGENCY.

OAH CASE NO. 2010110307

ORDER GRANTING ORANGE
COUNTY HEALTH CARE AGENCY'S
MOTION TO DISMISS

On December 20, 2010, the Office of Administrative Hearings (OAH) granted Student's motion to file an Amended Request for Due Process Hearing (complaint) against the Saddleback Valley Unified School District (District) and Orange County Health Care Agency (OCHCA). On December 30, 2010, OCHCA filed a Motion to Dismiss, alleging that Student's complaint did not allege that OCHCA denied him a free appropriate public education (FAPE).¹ OAH received no response to the Motion to Dismiss from Student.

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 student who has been determined to be an individual with exceptional needs or is suspected of needing mental health services may, after the Student's parent has consented, be referred to a community mental health service in accordance with Government Code section

¹ OCHCA also alleged that OAH does not have jurisdiction over OCHCA because it is no longer responsible for services to Student under Chapter 26.5 of the Government Code ("AB 3632") because the Governor has vetoed funding for those services and suspended the statutory mandate that the services be provided by county mental health agencies such as OCHCA. In an order dated December 7, 2010, OAH rejected OCHCA's position in another matter in denying its motion to dismiss. (*Student v. Fullerton Joint Union High School District and Orange County Health Care Agency* (2010) Cal.Ofc.Admin.Hrngs. Case No. 2010110268.)

7576 when the student meets criteria for referral specified in California Code of Regulations, title 2, section 60040, and the school district has, in accordance with specific requirements, prepared a referral package and provided it to the community mental health service. (Ed. Code, § 56331, subd. (a); Cal. Code Regs., tit. 14, § 60040, subd. (a).)

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education”, and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

DISCUSSION

In the present matter, Student alleges that the District denied a FAPE by failing to fund his agreed upon placement, and failing to reimburse Parents for costs related to a private educational placement. Student contends in the complaint that OCHCA is an appropriate party because of its funding responsibility for Student’s residential placement. However, the complaint contains no allegations against OCHCA regarding its failure to attend Student’s November 18, 2010 individualized educational program meeting, any failure to provide Student with mental health services, or request that OCHCA fund his residential placement. Therefore, OCHCA’s motion to dismiss is granted as the complaint does not contain any allegations that OCHCA denied Student a FAPE.

ORDER

OCHCA’s Motion to Dismiss is granted. The matter will proceed as scheduled against the District.

Dated: January 20, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings