

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CARDIFF ELEMENTARY SCHOOL  
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012050287

NOTICE OF DISMISSAL OF  
DISTRICT'S REQUEST FOR DUE  
PROCESS

On May 4, 2012, the Cardiff Elementary School District (District) filed a due process request (complaint) with the Office of Administrative Hearings (OAH) naming Student as the respondent. The District's complaint states as its issue the following: "According to board policy, students must sleep a minimum of 3 nights a week within the district boundaries. According to the written custody agreement, Kailer sleeps at his mother's residence 7 nights a week which is within the San Marcos Dist." As a proposed remedy, the District requests that "Kailer be transferred to the San Marcos Unified School District."

DISCUSSION

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" (FAPE), 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.)

In the instant case, there is no indication in the District's complaint that it is bringing its due process request with regard to the identification, evaluation, or educational placement of Student pursuant to the IDEA. OAH has jurisdiction to determine whether a child is a legal resident of a school district for purposes of determining whether the school district in question is legally responsible for providing a free appropriate public education to the child.

However, OAH does not have jurisdiction in special education matters to order a child transferred to another school district.

Since OAH does not have jurisdiction to determine residency issues outside of the context of the provision of special education to children, and because OAH does not have the authority to order Student to be transferred to another school district, OAH is hereby dismissing this case as beyond its jurisdiction.

**ORDER**

1. OAH Case No. 2012050287 is dismissed.
2. All dates in this matter are vacated and the matter shall be closed.

Dated: May 18, 2012

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings