

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEVADA JOINT UNION HIGH SCHOOL DISTRICT; GRASS VALLEY SCHOOL DISTRICT; and NEVADA CITY SCHOOL DISTRICT.

OAH Case No. 2015030003

ORDER GRANTING GRASS VALLEY SCHOOL DISTRICT'S MOTION TO BE DISMISSED AS A PARTY

On April 7, 2015, the Office of Administrative Hearings granted Grass Valley School District's motion to dismiss allegations against it raised in Student's request for due process (complaint) that were beyond the applicable two-year statute of limitations. On April 9, 2015, all three respondent school districts filed a motion to fully dismiss Grass Valley as a party to this action. Districts contend that OAH does not have jurisdiction over Grass Valley because Student's complaint does not allege that Grass Valley was responsible for providing him with a free appropriate public education during the two years prior to the filing of Student's complaint. To the contrary, Student's complaint acknowledges that he was enrolled in another school district during the time in question.

Student has not filed an opposition or other response to Districts' motion to dismiss.

APPLICABLE LAW AND DISCUSSION

Special education due process hearing procedures extend 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.)

Generally, a child's school district of residence is generally responsible for providing him or her with special education and related services if the child is eligible for them. However, if the child has chosen to enroll in a charter school, the local educational agency that chartered the school, or the charter school itself if it is its own local educational agency, assumes that responsibility. (Ed. Code, §§ 47646, subd. (a) and 56026.3.)

The statute of limitations for this case begins on February 23, 2013, two years before Student filed for due process in this case on February 23, 2015. In his complaint, Student states that for the 2011-2012 school year, he attended school in the Union Hill School District on an inter-district transfer from Grass Valley, his school of residence. When Union Hill allegedly threatened to rescind the inter-district transfer during the 2012-2013 school year, returning Student to Grass Valley, Student chose instead to enroll in the Chicago Park Community Charter School, which was chartered by the Chicago Park School District. Student remained at Chicago Park through the remainder of the 2012-2013 school year. Student subsequently enrolled in the Nevada Union High School District. Student's complaint therefore contains no allegations that he enrolled in, or attempted to enroll in, Grass Valley at any time during the two years prior to the filing of his complaint.

By virtue of his enrollment in the charter school, Student became a resident of that district for purposes of his education. Since he fails to raise any contention that he was enrolled in Grass Valley or that Grass Valley was responsible for his education during the applicable two years prior to the filing of his complaint, Student gives no grounds for OAH jurisdiction over Grass Valley.

For these reasons, Districts' motion to dismiss Grass Valley as a party is granted.

ORDER

Districts' motion to dismiss Grass Valley as a party to this due process proceeding is granted. The matter will proceed as scheduled against Nevada Joint Union High School District and Nevada City School District.

DATE: April 22, 2015

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings