

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

EAST SIDE UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015050956

ORDER GRANTING MOTION TO
DISMISS

On May 13, 2015, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint) naming the East Side Union High School District. The complaint alleges two related issues. The first issue is a request that East Side conduct an assessment for special education and under Section 504 of the Rehabilitation Act of 1973 pursuant to a request by Parents on April 14, 2015. Issue two is a request for OAH to order East Side to hold a “sit down” for Parents to sign an assessment plan. Student’s proposed resolution was to have East Side conduct an assessment.

On May 26, 2015, East Side filed a motion to dismiss the complaint on grounds that the matter was moot; or in the alternative, that Student’s request for a Section 504 evaluation is not within the jurisdiction of OAH.¹

In support of its motion, East Side attaches a copy of a Plan for Initial Assessment dated May 8, 2015. The assessment plan calls for evaluations in the areas of academic achievement, intellectual development, language/speech/communication development, motor development, social/emotional, auditory processing, and memory. On May 14, 2015, Student’s father signed the assessment plan giving East Side to conduct the initial assessment.

¹ As this matter is moot, this order need not address the issue regarding the Section 504 claim.

DISCUSSION

Under the doctrine of mootness, a court may refuse to hear a case because it does not present an existing controversy by the time of decision. (*Wilson v. Los Angeles County Civil Service Com.* (1952) 112 Cal.App.2d 450, 453.) However, mootness is not a jurisdictional defect. (*Plymouth v. Superior Court* (1970) 8 Cal.App.3d 454, 460.) A case may be moot when the court cannot provide the parties with effectual relief. (*MHC Operating Ltd. Partnership v. City of San Jose* (2003) 106 Cal.App.4th 201, 214.) An exception to the mootness doctrine is made if a case presents a potentially recurring issue of public importance. (*DiGiorgio Fruit Corp. v. Dept. of Employment* (1961) 56 Cal.2d 54, 58.)

Here, the relief requested by Student is to require East Side to hold a meeting for Parents to sign an assessment plan and for East Side to conduct an assessment consistent with the assessment plan. Since Parent has signed an assessment plan on May 14, 2015, there is no relief that OAH can provide the relief requested. Thus, the matter is moot.²

ORDER

East Side's motion to dismiss is granted as the matter is moot.

DATE: June 05, 2015

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

² Nothing in this order constitutes a finding that District did not violate applicable special education laws regarding the timeliness of the assessment.