BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

FOLSOM-CORDOVA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024120652

ORDER DISMISSING COMPLAINT FOR LACK OF JURISDICTION; ORDER DENYING MOTION TO CONSOLIDATE AS MOOT

DECEMBER 21, 2024

On November 13, 2024, Parent on behalf of Student filed with the Office of Administrative Hearings, called OAH, a due process hearing request naming Folsom-Cordova Unified School District. A request for due process hearing is called a complaint. Student's complaint was assigned OAH case number 2024110401 and is referred to as Student's Case.

On December 17, 2024, Folsom-Cordova Unified filed a complaint naming Student. Folsom-Cordova Unified's complaint was assigned OAH case number 2024120652 and is referred to as Folsom-Cordova Unified's Case.

Folsom-Cordova Unified's Case raised two issues:

1. May the Folsom-Cordova Unified convene an IEP team meeting with or without Parent's attendance?
2. May the Folsom-Cordova Unified require that Student attend school every day for the entire school day so that the District can implement the IEP?

On December 17, 2024, Folsom-Cordova Unified filed a motion to consolidate Student's Case with Folsom-Cordova Unified's Case.

On December 20, 2024, Administrative Law Judge Rommel P. Cruz held a prehearing conference in Student's Case. Administrative Law Judge is called ALJ.

Attorney Michelle Wilkolaski appeared on behalf of Student. Attorneys Rebecca Diddams and Katie Yoshida appeared on behalf of Folsom-Cordova Unified.

In considering Folsom-Cordova Unified's motion to consolidate at the PHC, the ALJ raised the issue of whether OAH had jurisdiction to address the issues in Folsom-Cordova Unified's Case. Folsom-Cordova Unified argued the issues raised involved a provision of a free appropriate public education, called FAPE, and are therefore, proper issues before OAH. Student argued the issues as plead were not within OAH's jurisdiction.

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to ensure that all children with disabilities have available to them a 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 a right to present a complaint regarding matters involving:

- the proposal or refusal to initiate or change the identification, assessment, or educational placement of a child, or 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.

(20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Here, the two issues raised in the Folsom-Cordova Unified's Case are not within OAH's jurisdiction because the issues do not involve the proposal or refusal to initiate or change the identification, assessment, or educational placement of Student, or the provision of a FAPE to Student. The issues also do not involve a refusal by Parent to consent to an assessment of Student, or a disagreement between Parent and Folsom-Cordova Unified about the availability of an appropriate program for Student.

Accordingly, the issues in Folsom-Cordova Unified Case are dismissed because they are not within OAH's jurisdiction. As a result, Folsom-Cordova Unified's complaint is dismissed. All dates in Folsom-Cordova Unified's case are vacated and the matter in OAH case number 2024120652 is closed.

Further, Folsom-Cordova Unified's motion to consolidate is denied as moot.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings