BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN DIEGO UNIFIED SCHOOL DISTRICT, SAN DIEGO SELPA, AND SAN DIEGO COUNTY OFFICE OF EDUCATION.	OAH Case No. 2017020361 ORDER DENYING SAN DIEGO COUNTY OFFICE OF EDUCATION'S MOTION TO DISMISS

On February 7, 2017, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint), naming San Diego Unified School District, San Diego Special Education Local Plan Area, and San Diego County Office of Education.

On February 14, 2017, SDCOE filed with OAH a Motion to Dismiss itself as a party to the case, on the grounds that it is an improper party and has never been a local educational agency responsible for providing Student with a free appropriate public education. On February 17, 2017, Student filed an opposition to the motion.

APPLICABLE LAW AND DISCUSSION

The Individuals with Disabilities Education Act and its state law counterparts do not set forth a procedure for dismissing IDEA-related claims on the merits without first affording the petitioning party a chance to develop a record at hearing. (20 U.S.C. § 1400 et seq.) The Administrative Procedures Act requires that parties appearing before OAH receive notice and an opportunity to be heard, including the opportunity to present and rebut evidence. (Gov. Code § 11425.10, subd. (a)(1).) However, at a prehearing conference, an administrative law judge may address such matters, "as shall promote the orderly and prompt conduct of the hearing." (Gov. Code, § 11511.5, subd. (b)(12). Similarly, at hearing an ALJ may take action "to promote due process or the orderly conduct of the hearing." (Cal. Code Regs., tit. 1 § 1030, subd. (e)(3).)

Accordingly, OAH may dismiss a matter in its entirety, or in part, where it is evident from the face of the complaint that the alleged issues fall outside OAH jurisdiction or the pleaded facts cannot sustain a claim. Such circumstances may include, among other things, complaints that assert civil rights claims, claims seeking enforcement of a settlement agreement, or claims against an entity that legally, cannot be responsible for providing special education and related services under the facts alleged.

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" may be "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.)

Here, SDCOE's contention that it is an improper party is an issue of fact that OAH does not have authority to determine without first allowing Student the opportunity to develop a factual record at hearing. Moreover, SDCOE is not alleging the complaint, on its face, is outside OAH jurisdiction or that it cannot legally be responsible for providing special education and related services under the facts alleged.

ORDER

SDCOE's Motion to Dismiss is denied. The matter shall proceed as scheduled.

IT IS SO ORDERED.

DATE: February 22, 2017

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings