BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2013100405
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case N0. 2013101109 ORDER GRANTING STUDENT'S MOTION TO WITHDRAW ISSUE

On October 10, 2013, Student filed a request for a due process hearing (complaint) with the Office of Administrative Hearings (OAH), naming the Sacramento Unified School District (District). Student's complaint contains three issues, as delineated in the Order Following Prehearing Conference dated February 14, 2014 (PHC Order). District's case, consolidated herein, contains one issue. On February 19, 2014, Student filed a motion to withdraw his first issue for hearing. No opposition was received from District.

APPLICABLE LAW AND DISCUSSION

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 free appropriate public education," 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].)

OAH may grant a motion to amend a complaint if the other party consents or if the hearing officer timely grants permission prior to hearing, generally restarting all applicable statutory timelines. (20 U.S.C. §1415(c)(2)(E)(i) and (ii).) Here, however, Student's request to withdraw an issue does not seek to amend the complaint but rather limit the issues for hearing. There is nothing in the law that prevents a party from timely withdrawing an issue from adjudication if proper notice has been given to the opposing party. OAH has generally allowed the party presenting the complaint to withdraw any issue if the request is timely made.

Student's Issue 1 is whether District failed to conduct an appropriate psychoeducational assessment in 2013 based on two limited grounds. District's issue (Issue 4 in the PHC order) is whether District's 2013 triennial assessment was legally compliant and appropriate. The due process hearing has not yet taken place, and the issue sought to be withdrawn has not been heard or decided by OAH. District does not object to this request. Therefore, Student's motion to withdraw Issue 1 is granted.

ORDER

1. Student's Issue 1 is dismissed without prejudice.

2. These consolidated matters will proceed as scheduled as to the remaining issues.

DATE: February 26, 2014

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings