BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LAS LOMITAS ELEMENTARY SCHOOL DISTRICT AND SEQUOIA UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017050461 ORDER GRANTING DISTRICT'S MOTION TO DISMISS

On May 9, 2017, Student filed a request for due process hearing (complaint) with the Office of Administrative Hearings, naming Las Lomitas Elementary School District and Sequoia Union High School District.[1] On June 13, 2017, Las Lomitas filed a motion to be dismissed as a party. Student did not file a response.

APPLICABLE LAW

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].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

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" is defined as "a

[1] Student also named the San Mateo County Special Education Local Plan Area. However, OAH granted it's motion to be dismissed as a party on May 31, 2017.

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.)

DISCUSSION

Student attended eighth grade at a Las Lomitas middle school for the 2016-2017 school year and is resident in another elementary school district in San Mateo County. His complaint concerns a provision in an individualized education program developed in January 2017, when the IEP team was engaged in developing a transition IEP for Student to attend ninth grade at a high school in Sequoia Union for the 2017-2018 school year. Las Lomitas and the school district where Student resides have schools that only go up to grade eight. After that students transfer to high schools in Sequoia Union for grades nine through 12.

The gist of Student's complaint is that the proposed IEP for the 2017-2018 school year calls for Student to attend a Sequoia Union high school that is a different high school than the one he would attend based on where his residence is located. Parents were told to enroll Student online at the other high school during the open enrollment period. However, the computer program for open enrollment requires an agreement that transportation will not be requested to the high school outside the high school boundaries where the student resides. Student's IEP requires that he be provided with transportation to and from school by the school district in which he is enrolled.

Once Student ceases attending a Las Lomitas school, it is no longer required to provide him with ongoing educational services, including transportation. That responsibility transfers to the new school district, in this case, Sequoia, unless there is some agreement between the parties otherwise, and that is not alleged. Accordingly, because the only issues in Student's complaint relate to transportation to and from high school for the 2017-2018 school year, Las Lomitas is not a necessary party, and therefore will be dismissed.

ORDER

Las Lomitas's motion to dismiss is granted. Las Lomitas is dismissed as a party in the above-entitled matter. The matter will proceed as scheduled against Sequoia Union.

IT IS SO ORDERED.

DATE: June 23, 2017

DocuSigned by:
Rebecca Freie
D1AE8D9E81A848C...

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings