

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

EASTSIDE UNION HIGH SCHOOL  
DISTRICT, ET AL.

OAH CASE NO. 2012110722

ORDER DENYING DISTRICT'S  
MOTION TO DISMISS AS MOOT

On December 20, 2012, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) an Amended Due Process Hearing Request (amended complaint) naming as respondents the Eastside Union High School District (District), Summit Public School: Tahoma Charter School (Tahoma), Alum Rock School District (Alum), and the Santa Clara County Office of Education (COE). On December 28, 2012, the District filed a response to the complaint. On December 28, 2012, COE filed a motion to be dismissed on grounds that it did not provide educational services to Student. On January 9, 2013, OAH issued an order granting the motion and dismissing COE as a respondent.

On January 18, 2013, the District filed this motion seeking an order to dismiss all claims made by Student which occurred prior to September 5, 2012, when Student first enrolled as a student with the District. Student has not filed a responsive pleading to the District's motion. On January 24, 2013, Tahoma filed an opposition to the motion.

DISCUSSION

The amended complaint contains three legal issues. The first issue is: Did the Respondents deny Student a free appropriate public education (FAPE) by failing to properly assess him since at least November 21, 2010, to the present? The amended complaint contains a detailed statement of facts which begins with Student's attendance at Alum in kindergarten and elementary school. In the general facts statement, Student alleges that he first enrolled as a student in the District on September 5, 2012. (Amended Complaint, at p.8.) The general statement of facts must be read as incorporated by reference to any facts alleged to support each issue alleged. Thus, the first issue limits the District for any actions prior to Student's enrollment.

Student's second issue is: Did the Respondents deny Student a FAPE by failing to design an education program to meet his unique needs since November 21, 2010, to present? Again, this issue must be read to include the general statement of facts which clearly states

that Student did not enroll in the District until September 5, 2012. Thus, the second issue only relates to the District from September 5, 2012, through the present.

Issue three alleges that the Respondents denied Student a FAPE by failing to provide prior written notice (PWN). In support of this issue, Student alleges specifically that at the time of his entering the District, the District failed to provide PWN as to its failure to adopt or implement the April 2, 2012 Tahoma adopted Individualized Education Program (IEP) and its decision to withdraw services called from that IEP. Thus, Student's allegations relating to the District occurred after September 5, 2012.

Since Student's allegations against the District relate only to the time period following his enrollment with the District, the District's motion is moot.

#### ORDER

The District's motion to dismiss all alleged claims against the District which arose prior to September 5, 2012, is hereby DENIED as it is moot since the amended complaint does not allege any claims as to the District prior to that date.

Dated: January 25, 2013

/s/

---

ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings