

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL
DISTRICT, CONTRA COSTA COUNTY
OFFICE OF EDUCATION AND CONTRA
COSTA SPECIAL EDUCATION LOCAL
PLAN.

OAH Case No. 2019030484

ORDER DENYING MOTION TO
DISMISS CONTRA COSTA COUNTY
OFFICE OF EDUCATION FROM
STUDENT’S COMPLAINT

On March 12, 2019, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Mt. Diablo Unified School District, Contra Costa County Office of Education, and Contra Costa Special Education Local Plan.¹

On March 22, 2019, Contra Costa County Office of Education filed a Motion to Dismiss its office from Student’s complaint alleging Contra Costa County Office of Education is not Student’s local educational agency and has no responsibility for providing Student with a free appropriate public education. Contra Costa County Office of Education however operates Floyd I. Marcus School, which was Student’s current placement until disenrolled by Mt. Diablo on February 22, 2019.

OAH received no response to the Motion to Dismiss from Student, Mt. Diablo Unified School District or Contra Costa Special Education Local Plan.

APPLICABLE LAW

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 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.)

¹ Contra Costa Special Education Local Plan Area was dismissed as a party to Student’s complaint pursuant to an Order Granting Dismissal, issued March 28 2019.

DISCUSSION

In the present matter, Contra Costa County Office of Education contends it is not Student's local educational agency, and is not responsible for developing Student's IEP program or offer of a free appropriate public education. The County Office of Education, however, falls within the definition of a "public agency" as "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." As Student's placement under Stay Put statutes (Ed. Code, § 56505, subd. (b).), and OAH Stay Put orders, issued March 28, 2019, requires County Office of Education to reenroll Student at Marcus School, County Office of Education is a public agency providing special education and related services, thusly remaining a necessary party to Student's complaint.

ORDER

Contra Costa County Office of Education's Motion to Dismiss Contra Costa County Office of Education is denied

The matter will proceed as scheduled against the remaining parties.

IT IS SO ORDERED.

DATE: March 28, 2019

DocuSigned by:

Judith Pasewark

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JUDITH PASEWARK

Administrative Law Judge

Office of Administrative Hearings