

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

IQ ACADEMIES OF CALIFORNIA - LOS ANGELES,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021090715

ORDER DENYING STUDENT'S MOTION TO DISMISS

COMPLAINT

SEPTEMBER 29, 2021

On September 21, 2021, IQ Academies of California – Los Angeles, called IQLA, filed a Due Process Hearing Request against Student with the Office of Administrative Hearings, referred to as OAH. On September 23, 2021, Student filed a motion to dismiss the complaint. IQLA filed a reply on September 28, 2021.

APPLICABLE LAW

There is no summary judgment procedure in special education cases. OAH will, however, dismiss allegations and cases not within its jurisdiction. OAH has jurisdiction only over claims alleging the Individuals with Disabilities Education Act or California

special education laws were violated. Special education due process hearings may involve the parent or guardian, a student, and "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.)

Here, IQLA requests OAH determine that its assessments are appropriate and Parent's assessment conditions constitute revocation of consent to the assessment plan. It further seeks an order allowing it to conduct assessments without parental consent. Student contends that IQLA's complaint is retaliatory, and it is also not the district of residence, thus the complaint should be dismissed.

Here, Student's motion to dismiss is not limited to matters that are facially outside of OAH's jurisdiction, but instead seeks a ruling on the merits. Whether or not IQLA's assessments are legally compliant and if Parent revoked consent to the assessments requires findings of fact by an administrative law judge. Additionally, Student's arguments show that an actual controversy exists between the parties requiring adjudication through the hearing process.

Accordingly, Student's motion to dismiss is denied.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings