BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
CLOVIS UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2014010199
v.	ORDER GRANTING MOTION TO WITHDRAW ISSUE
STUDENT.	

On January 7, 2014, the Clovis Unified School District (Clovis) filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH) naming Student.[1] District's complaint contains two issues. Issue 1 relates to Student's continuing eligibility for special education and related services, and Issue 2 relates to whether District's individualized education program offer to Student for the 2013-2014 school year constitutes free appropriate public education (FAPE) pursuant to the Individuals with Disabilities Education Act (IDEA).

On January 22, 2014, District filed a motion to withdraw Issue 2. No response or opposition has been received from Student.

APPLICABLE LAW AND DISCUSSION

The purpose of IDEA (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].)

[1] Student is over eighteen years of age.

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 previously allowed the party presenting the complaint to withdraw any issue if the request is made properly and timely. Here, the due process hearing has not taken place, and the issue sought to be withdrawn has not been decided by OAH. Therefore, District's request to withdraw Issue 2 is timely, and is granted. Accordingly, District's Issue 2 shall be dismissed without prejudice.

ORDER

1. District's Issue 2 is dismissed.

2. The matter will proceed as scheduled as to Issue 1 only.

IT IS SO ORDERED.

Dated: February 3, 2014

/s/
ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings