BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017070535 ORDER DENYING MOTION TO DISMISS

On July 14, 2017, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Los Angeles Unified School District, Birmingham Community Charter High School, and El Monte Union High School District.

On November 3, 2017, Los Angeles filed a motion to dismiss Issue 1 and 2 against El Monte, alleging that the issues were moot.

OAH received no response to the motion to dismiss.

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.)

Education Code section 48200 provides that a child subject to compulsory full-time education shall attend public school in the school district in which the child's parent or legal guardian resides. The determination of residency under the IDEA or the Education Code is no different from the determination of residency in other types of cases. (*Union Sch. Dist. v. Smith* (9th Cir. 1994) 15 F.3d 1519, 1525.)

DISCUSSION

On October 24 and 25, 2017, OAH heard the bifurcated issue of which District was responsible for assessing and offering Student a free appropriate public education for the

2017 – 2018 school year. On October 31, 2017, OAH issued an order dismissing Birmingham because it was not a local educational agency responsible for providing services to Student. OAH dismissed El Monte because Student did not reside within El Monte's attendance boundaries during the relevant time frame.

OAH's dismissal of El Monte from this matter rendered all issues pertaining to El Monte moot. Accordingly, Los Angeles' motion to dismiss issues relating to El Monte is moot and, on that basis, denied.

ORDER

Los Angeles's motion to dismiss is denied as moot. The matter shall proceed as scheduled on issues relating to Los Angeles.

IT IS SO ORDERED.

DATE: November 30, 2017

DocuSigned by:

COLE DALTON
Administrative Law Judge
Office of Administrative Hearings