BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CLARA COUNTY OFFICE OF EDUCATION, DISCOVERY CHARTER SCHOOL 2, AND SUNNYVALE SCHOOL DISTRICT.

OAH CASE NUMBER 2019090001

ORDER DENYING STUDENT'S MOTION TO STAY PROCEEDING, GRANTING DISMISSAL OF SUNNYVALE SCHOOL DISTRICT, DISMISSAL OF SANTA CLARA OFFICE OF EDUCATION, DISCOVERY CHARTER SCHOOL II, AND STUDENT'S COMPLAINT SUA SPONTE, AND DENYING SUNNYVALE'S MOTION FOR DIRECTED VERDICT

MAY 4, 2020

On August 30, 2019, Student filed a due process hearing request, referred to as a complaint, with the Office of Administrative Hearings, known as OAH, naming Santa Clara County Office of Education, called SCCOE, and Discovery Charter School II, called Discovery. OAH granted Student's request for leave to amend the complaint, adding Sunnyvale School District, called Sunnyvale, as a party, and deemed Student's second amended complaint filed on January 6, 2020.

On March 6, 2020, the undersigned administrative law judge, called ALJ, granted the parties' joint request for a bifurcated hearing to determine if Discovery and SCCOE were the local educational agencies, called LEA, responsible for Student during the applicable time period.

On March 10, 2020, the bifurcated hearing commenced, and the record closed on March 24, 2020. On April 10, 2020, the undersigned administrative law judge issued a bifurcated decision finding that Discovery and SCCOE were not the responsible LEAs for Student's free appropriate public education for the statutory period in this matter.

On April 30, 2020, Sunnyvale School District filed a motion with OAH for a directed verdict, or in the alternative, a dismissal of the complaint.

On May 1, 2020, Student filed a letter, with OAH, requesting dismissal of Sunnyvale School District and a stay of the proceeding pending appeal. The letter is interpreted as a motion.

STUDENT'S REQUEST TO STAY THE PROCEEDING IS DENIED.

Education Code section 56505, subdivision (h) provides that the administrative decisions in special education due process cases are final, notwithstanding subdivision (k)'s provision for appeal. The Individuals with Disabilities Education Act, called IDEA,

and related state statutes do not provide authority for OAH to stay a matter to allow a party its full 90 days to consider whether it intends to appeal a final decision in a bifurcated portion of the case. It would be a different matter were a court of competent jurisdiction to issue an order staying an administrative proceeding before OAH, however, that is not the case here. Further, Student failed to provide any legal authority in support of his motion to stay this proceeding. Accordingly, Student's motion to stay the proceeding is denied.

SUNNYVALE IS DISMISSED AS A PARTY.

On May 1, 2020, Student requested dismissal of Sunnyvale. Accordingly, this matter is dismissed as to Sunnyvale.

SANTA CLARA COUNTY OFFICE OF EDUCATION AND DISCOVERY CHARTER SCHOOL 2 ARE DISMISSED.

Parents have 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).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

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, § 56502, subd. (a).) A "public agency" is defined as "a school district, county office of education, special education local plan area, a nonprofit public charter school that is not otherwise included as a local educational agency, or any other public agency . . . providing special education or

related services to individuals with exceptional needs." (Ed. Code, §§ 56500 and 56028.5.) Children with disabilities who attend public charter schools retain all rights under federal and State special education law. (34 C.F.R. § 300.209(a); Ed Code, § 56145.)

The IDEA defines an LEA as "a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools and secondary schools." (20 U.S.C. § 1401(19)(A); 34 C.F.R. § 303.23(a).) Under California Law, an LEA means a school district as defined in Section 41302.5 or a charter school that is deemed an LEA under Section 47641. (Ed. Code, § 47640.) LEA also means a charter school that is responsible for complying with all provisions of the IDEA and implementing regulations as they relate to LEA's. (*Ibid.*)

Here, the undersigned ALJ determined that SCCOE and Discovery were not the responsible LEAs for Student's free appropriate public education for the entirety of the statutory period in this matter. The April 10, 2020 bifurcated decision effectively provided no remedy for Student as it relates to SCCOE and Discovery. Consequently, Student can no longer sustain a claim against these respondents based upon the face of his complaint. Thus, the undersigned administrative law judge, sua sponte, dismisses SCCOE and Discovery from this matter for lack of jurisdiction.

THE COMPLAINT IS DISMISSED.

Based upon the stated rulings dismissing all respondents in this matter, the undersigned ALJ, sua sponte, dismisses OAH case number 2019090001.

SUNNYVALE SCHOOL DISTRICT'S MOTION FOR A DIRECTED VERDICT IS DENIED AS MOOT.

Based upon the stated rulings, Sunnyvale's motion for directed verdict is denied as moot.

ORDER

1. Student's motion to stay the proceeding is denied.

2. Student's motion to dismiss Sunnyvale School District as a party is granted. Sunnyvale School District is dismissed as a party from this matter, OAH case number 2019090001.

3. The undersigned ALJ dismissed Santa Clara County Office of Education and Discovery Charter School II sua sponte. Santa Clara County Office of Education and Discovery Charter School II are dismissed as parties from this matter, OAH case number 2019090001.

4. The undersigned ALJ dismissed Student's complaint sua sponte. OAH case number 201909001, is dismissed.

5. Sunnyvale School District's motion for a directed verdict is denied as moot.

IT IS SO ORDERED.



Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings