

BEFORE THE
IOWA DEPARTMENT OF EDUCATION
(Cite as 27 D.o.E. 989)

In re: O.E. and I.E., children

E. E.)	Docket Nos. SE-416 and SE-417
)	(DIA No. 15DOESE010)
Complainant,)	
)	
v.)	
)	
[] Community School District)	
and Heartland Area Education Agency,)	ORDER: Granting
)	Motion to Dismiss
Respondents.)	

Background Proceedings

On January 27, 2015, E. E. filed a state complaint with the Iowa Department of Education (“Department”), alleging violations of the Individuals with Disabilities Education Act (“IDEA”) concerning both children. (Complaint ## 15-07 & 15-08) On April 27, 2015, the Department issued a written decision in which it concluded that the complaints were not confirmed. The four allegations brought forth by Mr. E. in his state complaint, all concluded to be not confirmed by the Department, were as follows:

1. That the Respondents herein violated Mr. E.’s IDEA rights to participate in his children’s Individualized Education Programs (“IEPs”) and meetings of the IEP team by complying with a protective order restraining Mr. E. from any contact other than pertinent text messaging with the protected party, the mother of the children.
2. That the Respondents violated the IDEA by not attaching a summary of or minutes of the IEP meeting discussions to his children’s IEPs and by not having him sign their IEPs.
3. That the Respondents violated the IDEA by not providing formal testing to his children.

Mr. E. then filed due process complaints with the Iowa Department of Education on May 15, 2015, on behalf of himself and his minor children. In both due process complaints, Mr. E. defined the problem as follows:

Mr. E. protests the outcome that the Department has made. Complaints are not confirmed is not acceptable. The state and Department is acting as

the judge, jury, and executioner without due process.

His proposed resolution was to have an “independent third party [] hear the facts and then a final decision may be rendered in this state complaint.”

On May 26, 2015, the Respondents jointly filed a motion to dismiss the due process complaints. The motion advances alternate grounds for dismissal of the due process complaints. First, that the complaints seek review of the Department’s decision in a state complaint and this administrative tribunal has no jurisdiction to review the Department’s decision and grant the relief sought by Mr. E. Second, that dismissal is appropriate under Department subrules 281—Iowa Administrative Code (IAC) 41.1003“a” or “d” because the issues raised in the due process complaints are unrelated to identification, evaluation, placement, or the provision of a free, appropriate public education (FAPE) of Mr. E.’s children.

Issue Presented by Motion

Whether the Complaints should be dismissed because the issues raised within the Complaints are outside the jurisdiction of this administrative tribunal.

Analysis

The federal Individuals with Disabilities Education Act (IDEA) is designed to “ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 U.S.C. § 1400(d)(1)(A); *see Board of Education of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 102 S.Ct. 3034, 73 L.E.2d 690 (1982). In exchange for accepting federal money to assist in educating children with disabilities, state and local education agencies must agree to make a free appropriate public education (FAPE) available to all qualifying children in their jurisdiction and must ensure that children with disabilities and their parents are provided with guaranteed procedural safeguards with respect to the provision of FAPE. 20 U.S.C. §§ 1412(a)(1); 1415(a).

The procedural safeguards of the IDEA, including the provisions relating to due process hearings, are intended to ensure that the rights of children with disabilities and their parents are protected and to provide a framework for prompt resolution of disputes regarding the identification, evaluation or educational placement of a child with a disability, or the provision of a free appropriate public education. 20 U.S.C. § 1415(b)(6)(B); 34 CFR § 300.507; 281—IAC 41.507(1)(b).

Rule 281—IAC 41.1003(7) states that a motion to dismiss “**shall** be granted” upon a determination by the administrative law judge that any of the following circumstances apply:

- a. The appeal relates to an issue that does not reasonably fall under any of the appealable issues of identification, evaluation, placement, or the provision of a free appropriate public education.
- b. The issue(s) raised is moot.
- c. The individual is no longer a resident of the LEA or AEA against whom the appeal was filed.
- d. The relief sought by the appellant is beyond the scope and authority of the administrative law judge to provide.
- e. Circumstances are such that no case or controversy exists between the parties.
- f. An appeal may be dismissed administratively when an appeal has been in continued status for more than one school year. Prior to an administrative dismissal, the administrative law judge shall notify the appellant at the last known address and give the appellant an opportunity to give good cause as to why an extended continuance shall be granted. An administrative dismissal issued by the administrative law judge shall be without prejudice to the appellant.

[Emphasis added.]

The due process complaints fall within paragraphs “a” and “d” above. Mr. E. does not raise an issue in his due process complaints related to the identification, evaluation, placement or provision of FAPE to either or both of his children. The relief he seeks – review of the Department’s decision dated April 27, 2015 – is beyond the scope and authority of the undersigned to provide.

Order

The Respondents’ motion to dismiss is granted as to all of the Complainants’ claims for prospective relief.

Issued this 29th day of May, 2015.



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Mother of Children