

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

OXNARD UNION HIGH SCHOOL DISTRICT AND
VENTURA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019100963

ORDER DENYING MOTION TO DISMISS

On October 22, 2019, Student filed a due process hearing request, referred to as a complaint, with the Office of Administrative Hearings, referred to as OAH. The complaint named Oxnard Union High School District, referred to as Oxnard Union, and Ventura Unified School District, referred to as Ventura. Relevant to this motion, the complaint alleged that Student was eligible for special education and resided within the boundaries of Oxnard Union. Oxnard Union agreed to allow Student an interdistrict transfer so Student could enroll in Ventura's El Camino High School.

The complaint alleged Ventura denied Student admission to El Camino High School, referred to as El Camino, on grounds that El Camino lacked the resources to provide the accommodations and services called for in Student's operative June 2019 individualized education program, referred to as an IEP. Student claimed Ventura

denied Student a free appropriate public education by refusing Student's interdistrict transfer and enrollment at El Camino on the basis of her disability.

On November 6, 2019, Ventura filed a motion to dismiss Student's complaint as to Ventura, on grounds that:

- OAH lacks jurisdiction to determine whether Ventura unlawfully denied Student's interdistrict transfer request;
- OAH lacks jurisdiction to determine whether Ventura improperly denied Student's interdistrict transfer request because of his disability; and
- OAH lacks jurisdiction over Ventura in this matter because Student was not enrolled in Ventura.

Ventura contends in its motion and accompanying sworn declaration that it approved Student's interdistrict transfer request on October 21, 2019, but offered placement at Ventura's Buena High School instead of El Camino. Ventura contends it offered Buena High School because that school could offer Student an educational program most comparable to the program specified in Student's June 2019 IEP. Ventura contends Parent did not accept Ventura's offer to place Student at Buena High School, and never enrolled Student in Ventura.

On November 12, 2019, Student filed an opposition to Ventura's 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.)

The purpose of the Individuals with Disabilities Education Act (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].) 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.)

OAH does not have jurisdiction to hear an appeal of a district's denial of an interdistrict transfer request. Such appeals must be made to the county board of education. (Ed. Code, § 46601, subd. (a).)

DISCUSSION

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of

settlement agreements, incorrect parties, etc. . . .), special education law does not provide for a summary judgment procedure. Here, factual issues regarding Ventura's response to Student's interdistrict transfer request must be resolved in order to determine the legal issues presented. (Ed. Code, §§ 48200; 46204.) Ventura's motion is thus not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

ORDER

Ventura's Motion to Dismiss is denied. The matter shall proceed as scheduled.

DATED: November 15, 2019

Robert G. Martin
Administrative Law Judge
Office of Administrative Hearings