

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS, GOLDEN
PLAINS UNIFIED SCHOOL DISTRICT, AND KERMAN UNIFIED
SCHOOL DISTRICT.

OAH CASE NUMBER 2020070315

ORDER DENYING MOTION TO DISMISS KERMAN UNIFIED
SCHOOL DISTRICT AS A PARTY

AUGUST 12, 2020

On July 9, 2020, Student filed a Due Process Hearing Request naming Kerman Unified School District, Fresno County Superintendent of Schools; and Golden Plains Unified School District, with the Office of Administrative Hearings, often called OAH. On July 28, 2020, Kerman filed a Motion to be dismissed asserting it is not an appropriate party. Kerman contends that it is not responsible for offering or providing a free and appropriate public education, called a FAPE, to Student. On July 30, 2020, Golden Plains

filed a non-opposition. On July 31, Fresno County Superintendent of Schools filed a non-opposition. No response was filed by Student.

APPLICABLE LAW

There is no summary judgment procedure in special education cases. OAH will, however, dismiss allegations and cases not within its jurisdiction. OAH has jurisdiction only over claims alleging the Individuals with Disabilities Education Act, called IDEA, or California special education laws were violated. Special education due process hearings may involve the parent or guardian, a student, and "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 complaint in this case names Kerman Unified School District as a responsible public agency. It is undisputed that Kerman is a public agency that provides special education and related services to students with exceptional needs. The complaint in this case states several issues alleging denials of FAPE to Student in violation of the IDEA and California special education laws. Accordingly, OAH has jurisdiction in this matter. The question of whether Kerman is responsible for the provision of a FAPE to Student is a question of fact to be determined at hearing. As there is no summary judgement procedure in special education cases, Kerman's motion to be dismissed as a party is denied.

ORDER

Kerman's motion to be dismissed as a party is denied. This matter shall proceed

against all parties named in Student's complaint as presently scheduled.

IT IS SO ORDERED.

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings