

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND PACIFIC PALISADES
CHARTER HIGH SCHOOL.

OAH CASE NO. 2015050071

ORDER GRANTING MOTION TO
DISMISS

On April 15, 2015, Student filed a Request for Due Process Hearing naming Los Angeles Unified School District (District) and Pacific Palisades Charter High School (Charter)¹.

On April 25, 2015, Charter filed a Motion to Dismiss, alleging that it was not a proper party to this action. The motion was supported by a declaration under penalty of perjury. Charter contends that it is not a proper party to Student's complaint because Student alleges that District is the responsible local educational agency for purposes of special education and Student has never enrolled in Charter.

Neither District nor Student filed a 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.)

¹ In the motion to dismiss, charter school identifies itself as "Palisades Charter High School."

DISCUSSION

Student contends he was denied a free appropriate public education for the 2014 – 2015 school year, in part, because District offered Student placement at Vista Del Mar Non Public School. The complaint does not allege any facts that Charter was in any way responsible for making this decision, or any other decision regarding Student's education. Further, the complaint does not allege any facts that support a claim against Charter simply because it happens to be a charter school within the area of Student's residence. The only reference to Charter is that it is Student's school of residence.

The complaint does not allege that Student ever enrolled in or attended Charter at any time, or that Charter acted in any way to cause Student a denial of a FAPE. In fact, the complaint alleges that Student has been in an out of state residential treatment center since the summer of 2012. In the absence of any allegations against Charter and in light of Student's non-opposition to the motion, Charter's motion is granted without prejudice to Student's right to amend the complaint if it has facts supporting any claim against Charter.

ORDER

Palisades Charter High School's Motion to Dismiss is granted. Charter is dismissed as a party in the above-entitled matter. The matter will proceed against District. All dates are confirmed.

IT IS SO ORDERED.

DATE: May 05, 2015

/s/

COLE DALTON
Administrative Law Judge
Office of Administrative Hearings