

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

**IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,**

v.

**FRESHWATER ELEMENTARY SCHOOL DISTRICT, CALIFORNIA
DEPARTMENT OF EDUCATION, CALIFORNIA COMMISSION
ON TEACHER CREDENTIALING, SINON TALTY, GRETCHEN
MILLER, REBECCA SIBLEY-BAUGH, MICHELLE COLLIN, GREG
HALL AND AUDREY DIEKER.
OAH CASE NUMBER 2019090479**

**ORDER GRANTING MOTION TO DISMISS INDIVIDUALS NAMED AS
PARTIES FOR LACK OF JURISDICTION**

On September 13, 2019, Parents on behalf of Student filed a Due Process Hearing Request, often called a complaint, with the Office of Administrative Hearings, often called OAH. As parties to the complaint, Student named Freshwater Elementary School District, California Department of Education, California Commission On Teacher Credentialing, Sinon Talty, Gretchen Miller, Rebecca Sibley-Baugh, Michelle Collin, Greg Hall and Audrey Dieker as respondents.

On September 17, 2019, Freshwater Elementary School District filed a motion to dismiss Sinon Talty, Gretchen Miller, Rebecca Sibley-Baugh, Michelle Collin, Greg Hall and Audrey Dieker as parties to the complaint on the grounds that they do not meet the statutory definition of a public agency. No opposition to the motion was received. Proof of service demonstrated that the motion was served on Parents via U.S. Mail and via email from Santa Rosa, California on September 17, 2019.

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 violations of the Individuals with Disabilities Education Act or California special education laws. 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.)

Student's complaint names Sinon Talty, Freshwater's Superintendent, according to the complaint; and Gretchen Miller, Rebecca Sibley-Baugh, Michelle Collin, Greg Hall and Audrey Dieker, all named as members of the Board of Trustees. The complaint does not allege how Sinon Talty, Gretchen Miller, Rebecca Sibley-Baugh, Michelle Collin, Greg Hall and Audrey Dieker qualify as public agencies over which OAH has jurisdiction in a complaint alleging violations of the Individuals with Disabilities in Education Act or California Special Education Laws.

ORDER

Freshwater's motion to dismiss the individuals named is granted. Student's due process hearing request against Sinon Talty, Gretchen Miller, Rebecca Sibley-Baugh, Michelle Collin, Greg Hall and Audrey Dieker is dismissed because OAH does not have jurisdiction over them. This matter shall proceed against Freshwater Elementary School District, California Department of Education, and California Commission On Teacher Credentialing, as presently scheduled.

IT IS SO ORDERED.

DATED: September 23, 2019

DocuSigned by:
Penelope S. Pahl
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Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings