

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN CARLOS ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2021080246

ORDER DISMISSING PARTY FOR LACK OF JURISDICTION

AUGUST 19, 2021

On August 6, 2021, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming San Carlos Elementary School District and San Mateo County Special Education Local Plan Area. San Carlos Elementary School District is referred to as San Carlos, and San Mateo County Special Education Local Plan Area is referred to as SELPA.

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 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 SELPA as a responsible public agency. The complaint does not allege how SELPA is a public agency over which OAH has jurisdiction. The due process hearing request vaguely alleges that SELPA is responsible for the oversight of special education services, that its name appears in the header of San Carlos' individualized education program and other documents, and that it stands in the stead of the California Department of Education in ensuring a free appropriate public education for all students in the State of California. However, despite a 63-page complaint including the names and alleged conduct of dozens of individuals, extensive quotes from a long series of documents, and ad nauseum test scores, all from as early as 2012, Student alleges no facts whatsoever that SELPA was involved in any decisions regarding Student, or provided Student with special education or related services.

ORDER

Student's due process hearing request is dismissed as to San Mateo SELPA because OAH does not have jurisdiction over San Mateo SELPA. This matter shall proceed against San Carlos as presently scheduled.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings