

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

NORTHERN HUMBOLDT UNIFIED HIGH SCHOOL DISTRICT,
HUMBOLDT COUNTY OFFICE OF EDUCATION, HUMBOLDT
SPECIAL EDUCATION LOCAL PLANNING AGENCY, CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY, DEPARTMENT OF
HEALTH CARE SERVICES, CALIFORNIA CHILDREN'S SERVICES,
MEDICAL, DEPARTMENT OF DEVELOPMENTAL SERVICES,
DEPARTMENT OF SOCIAL SERVICES, AND IN HOME SUPPORT
SERVICES.

OAH CASE NUMBER 2021070937

ORDER DISMISSING PARTY (DEPARTMENT OF
DEVELOPMENTAL SERVICES) FOR LACK OF JURISDICTION

SEPTEMBER 27, 2021

On August 20, 2021, Student filed an amended Due Process Hearing Request with the Office of Administrative Hearings, often called OAH. Student named as respondents the California Department of Education, Northern Humboldt Unified High School District, Humboldt County Office of Education, Humboldt Special Education Local Planning Agency, California Health and Human Services Agency, the Department of Health Care Services, California Children's Services, MediCal, the Department of Developmental Services, Redwood Coast Regional Center, the Department of Social Services, and In Home Support Services. By Order dated September 1, 2021, the California Department of Education was dismissed. By Order dated September 7, 2021, Redwood Coast Regional Center was dismissed.

On September 21, 2021, the Department of Developmental Services, called DDS, moved to be dismissed as a party. DDS claimed that it had never been served with a copy of the complaint or amended complaint. DDS also claimed that it was not involved with or responsible for the identification, evaluation, placement or the provision of a free appropriate public education to Student, and therefore that it is not a proper party to this special education due process proceeding. Student did not file any response to DDS' Motion to Dismiss.

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 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 amended complaint in this case names DDS as a responsible public agency. but does not allege how DDS is a public agency over which OAH has jurisdiction. DDS’ Motion to Dismiss states that it is the state agency with primary jurisdiction over execution of the Lanterman Act, Welfare and Institutions Code, sections 4500 et seq. OAH’s special education division does not have jurisdiction to adjudicate violations of the Lanterman Act. Moreover, the proof of service attached to the amended complaint does not indicate that DDS was ever served. Furthermore, Student did not file any response to DDS’ Motion to Dismiss. For these reasons the Motion to Dismiss DDS as a party is granted. Nothing in this order prevents Student from filing a case alleging violations of the Lanterman Act with OAH’s general jurisdiction division.

ORDER

Student’s due process hearing request against DDS is dismissed. This matter shall proceed against the remaining respondents as presently scheduled.

IT IS SO ORDERED.



June Lehrman

Administrative Law Judge

Office of Administrative Hearings