

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, CALIFORNIA
CHILDREN'S SERVICES, AND DEPARTMENT OF SOCIAL SERVICES.

OAH CASE NUMBER 2021070937

ORDER DISMISSING DEPARTMENT OF SOCIAL SERVICES
FOR LACK OF JURISDICTION

OCTOBER 8, 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. By Orders dated September 27, 2021, California Health and Human Services Agency, Humboldt Del Norte SELPA, and Department of Developmental Services were dismissed.

California Department of Social Services, called CDSS, filed a motion to dismiss the amended complaint as to CDSS on October 1, 2021. CDSS claimed it was never served with the complaint, and that it is not a local educational agency responsible for the identification, evaluation, educational placement or provision of a free appropriate public education to Student. The motion to dismiss does not include any declaration supporting the facts upon which it bases its motion to dismiss. However, OAH has no record of a proof of service by Student of the amended complaint on CDSS.

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 CDSS as a responsible public agency. but does not allege how CDSS is a public agency over which OAH has jurisdiction. CDSS'S Motion to Dismiss states that it is the state agency with primary jurisdiction over services under Welfare and Institutions Code, sections 10000 et seq. OAH's special

education division does not have jurisdiction to adjudicate violations of the Welfare and Institutions Code. Moreover, the proof of service attached to the amended complaint does not indicate that CDSS was ever served. Furthermore, Student did not file any response to CDSS's Motion to Dismiss. For these reasons the Motion to Dismiss DDS as a party is granted.

Student's due process hearing request is dismissed because OAH does not have jurisdiction over CDSS.

IT IS SO ORDERED.

Adrienne L. Krikorian

Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings