

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO COUNTY OFFICE OF EDUCATION AND SAN DIEGUITO
UNION HIGH SCHOOL DISTRICT.
OAH CASE NUMBER 2021050037

ORDER DISMISSING PARTY FOR LACK OF JURISDICTION

NOVEMBER 5, 2021

On April 29, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, which named San Dieguito Union High School District, San Diego County Office of Education, called SDCOE, and parties which have since been dismissed. On May 17, 2021, OAH determined the complaint was insufficient. On May 20, 2020, SCDOE filed a motion to dismiss. Student filed an amended complaint on June 1, 2021, naming the same parties. On June 2, 2021, OAH denied Student's motion to dismiss as moot because of the first amended complaint.

On June 14, 2021, OAH determined Student's amended complaint was insufficiently pled as to SDCOE and allowed Student 14 days to amend the complaint. On June 18, 2021, Student filed a second amended complaint.

On October 15, 2021, OAH held a prehearing conference and issued an Order Following Prehearing Conference. On October 25, 2021, OAH issued a Supplemental Order Following PHC. The Supplemental Order ordered the parties to present evidence on the first day of hearing through testimony and or documents on if and or how OAH has jurisdiction over San Diego County Office of Education as to the claims in Student's complaint, as defined at the prehearing conference.

On November 2, 2021, the undersigned held the first day of the due process hearing. Cara Schukoske, Executive Director of SDCOE testified. All parties had the opportunity to question Schukoske. Schukoske established her credibility and qualification to testify based upon her experience as an administrator in the area of special education for school districts in the San Diego area, her knowledge of the Individuals with Disabilities Education Act, and her knowledge and experience in her current position, which she held for the past four years and encompassed the time period of Student's complaint. Schukoske relied on portions of exhibit COE106, also attached to SDCOE's motion, which will be admitted into evidence.

At the conclusion of Schukoske's testimony the undersigned ALJ invited SCDOE to file a motion to dismiss for lack of jurisdiction based upon Schukoske's testimony which SDCOE did on November 3, 2021. Student timely filed an opposition on November 5, 2021.

Student was a parentally placed student in a private therapeutic residential setting outside of California at all relevant times. Student's parents resided within the

San Dieguito Union High School District local educational agency, called San Dieguito. San Dieguito was part of the North Coastal Commission for Special Education, referred to as North Coastal. In May 2020, Parents enrolled Student in San Dieguito for the sole purpose of confirming Student's eligibility for special education and seeking funding for Student's private placement in the past and prospectively. San Dieguito assessed Student and held individualized education program team meetings, called IEP meetings, for Student, who remained privately placed out of state between May 2020 through the date Student filed the second amended complaint.

Schukoske's testimony unequivocally established that SDCOE was not a local educational agency responsible for educational decision-making for San Dieguito students. SDCOE belonged to a special education local plan area which did not serve San Dieguito. SDCOE served only as a pass through for funding and human resource support for North Coastal. SDCOE had no authority to make any educationally related decisions for students within the jurisdiction of San Dieguito. SDCOE had no authority to, and never did, make any educationally related decisions pertaining to Student or Student's education. No one from SDCOE ever participated in assessments of Student, attended an IEP team meeting for Student, participated in the development of Student's IEP, or participated in or made any educationally related decisions for Student from April 29, 2019, until June 2021 when the second amended complaint was filed.

Student argues that North Coastal, as the special education local plan area, was the responsible local educational agency for educational decisions involving San Dieguito. Student also argues that SDCOE, as the administrative unit for North Coastal, receives special education funds and manages coordination of the special education local plan. Student contends SDCOE therefore had a supervisory role over North

Coastal. Student also argues the supervisory role and its role as a pass-through for funding rendered SDCOE a necessary party to this action.

OAH will dismiss claims and parties not within its jurisdiction. The Individuals with Disabilities Education Act, called IDEA, affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education, referred to as FAPE, to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511; Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.)

OAH has jurisdiction only over claims alleging the IDEA 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.)

Student’s due process complaint alleges 12 issues claiming denial of FAPE, each of which name both San Dieguito and SDCOE. The sworn testimony of Cara Schokoske persuasively established that OAH has no jurisdiction over any of the 12 claims alleged against SDCOE. Student offered no evidence that established, and did not contend, that SDCOE was a public agency that made any educationally related decisions regarding Student. SDCOE’s role was solely administrative, as to its relationship with North Coastal, which is outside of OAH jurisdiction.

Accordingly Issues 1 through 12 of the complaint are dismissed with prejudice as to SDCOE. The matter will proceed to hearing only as to San Dieguito and the claims alleged against San Dieguito.

IT IS SO ORDERED.

Adrienne L. Krikorian

Adrienne L. Krikorian

Administrative Law Judge

Office of Administrative Hearings