

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

NORTHERN HUMBOLDT UNION HIGH SCHOOL DISTRICT AND
REDWOOD COAST REGIONAL CENTER.

OAH CASE NUMBER 2021110695

ORDER GRANTING REDWOOD COAST REGIONAL
CENTER'S REQUEST FOR DISMISSAL
FOR LACK OF JURISDICTION

FEBRUARY 1, 2022

On November 23, 2021, Student filed a Due Process Hearing Request with the Office of Administrative Hearings, also called OAH, naming Northern Humboldt Union High School District and Redwood Coast Regional Center as respondents. On December 10, 2021, Redwood Coast Regional Center was dismissed on the grounds that OAH did not have jurisdiction over it in a special education case. On January 7, 2022, Student's motion to amend the complaint was granted. Student's amended complaint alleged additional facts and renamed Redwood Coast Regional Center as a respondent.

On January 24, 2022, Redwood Coast Regional Center again filed a motion to be dismissed as a party as no additional facts were pled in the amended complaint establishing jurisdiction. The regional center again asserted OAH lacked jurisdiction over it in a special education matter. On January 27, 2022, Student filed an opposition to the motion.

Student asserts the regional center is an indispensable party because it directly involved itself in Student's educational decision-making process; and interfered in Student's ability to receive a FAPE by preventing Student's IEP from being implemented. Student contends that there is no legal authority preventing OAH from exercising authority over the regional center in this case, citing OAH's jurisdiction over the regional center in Lanterman Act cases as an example. Student essentially seeks a determination regarding which public entity is responsible for Student's in-home services. Student analogizes the situation to forcing Student to try multiple cases against joint tortfeasors.

APPLICABLE LAW AND DISCUSSION

OAH will 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).) California Education Code, section 56028.5, defines "public agency" as "a school district, county office of education, special education local plan area, a non-profit public charter school that is not otherwise included as a local educational agency, and is not a school within a local educational agency, or any other public agency under the auspices of the state or any political subdivision of the state, providing special education or related services to individuals

with exceptional needs.” Redwood Coast Regional Center does not meet this definition in this case. The amended complaint in this case names Redwood Coast Regional Center as a responsible public agency and describes Redwood Coast Regional Center’s connection to the case. However, it still does not allege how the regional center is a public agency over which OAH has jurisdiction pursuant to the IDEA or special education law. Student pleads no facts stating that the regional center provides special education or IEP related services, thus bringing it under the jurisdiction of OAH in a special education hearing. Even accepting as true, for purposes of this determination, that the regional center did everything Student alleges, a basis for jurisdiction has not been stated.

Student argues that the regional center was unwilling to accept responsibility for providing in-home services to Student and this decision impeded Student’s ability to accept an offer of FAPE from Northern Humboldt. Student contends the regional center’s unwillingness to provide the in-home services resulted in the regional center becoming a “public agency involved in decisions regarding a pupil,” resulting in the regional center meeting the definition of an agency over which OAH would have jurisdiction in a special education hearing. This argument fails to acknowledge, however, the initial section in the chapter that defines “public agency” as it is defined in California Education Code section 56028.5 and title 34 of the Code of Federal Regulations, section 300.33. (Ed. Code § 56500.) That public agency definition is limited to only those public agencies that provide special education or related services in Student’s IEP. (20 U.S.C § 1401 (26); Ed. Code § 56363, subd. (a). [defining related services]; Ed. Code § 56345 [describing the requirement that all related services necessary to provide FAPE must be included in Student’s Individualized Education Program or IEP document.].) Student has failed to plead facts establishing it as a public

agency that meets the definition of an agency that provide special education or related services.

Student also argues that there is no legal authority that prevents OAH from exercising authority over OAH under the circumstances pled. However, Student's jurisdictional analysis is backwards. Jurisdiction in special education matters is specifically defined by the IDEA and California special education laws. The question is not whether there is a legal authority that prevents OAH from exercising jurisdiction over the regional center. The question is whether the IDEA or California special education law allow OAH to exercise jurisdiction over the regional center in an IDEA request for due process.

OAH does not have default jurisdiction over every public agency that serves Students who also receive special education. The word jurisdictional generally defines the classes of cases a court may entertain and the entities over which the court may exercise adjudicatory authority. (*Fort Bend County, Texas v. Davis*, (2019) 587 U.S. __; 139 S.Ct. 1843, 1848; 204 L.Ed.2d 116.) The Special Education Division's jurisdiction in IDEA due process hearings is limited by the IDEA and California special education law. The IDEA specifically provides for limited hearings regarding complaints involving a public agency, as that term is defined by statute, and parents or adult students who seek determination of a violation of the IDEA related to identification, evaluation, or educational placement of a child or the provision of a free, appropriate public education or FAPE. (20 U.S.C. 1415 (a)(6); Ed. Code § 56500(a), 56501.) OAH's jurisdiction is limited to only those issues and parties defined by the IDEA and California special education law. (*Wyner ex rel. Wyner v. Manhattan Beach Unified School Dist.*, (9th Cir. 2000) 223 F.3d 1026, 1028-2019.)

Student further asserts, without legal authority, that there is no clear distinction in this case between related services provided pursuant to the IDEA and services provided by the regional center. Contrary to Student's assertion, there is a clear distinction between the services required to be provided by the IDEA and the services required to be provided by the Lanterman Act. Services provided to Student pursuant to state and federal special education laws must be included in an individualized education program or IEP. The complaint contains no allegations that Student's IEP includes services provided by the regional center. The complaint does allege that Student receives services from Regional Center as provided for in her individual program plan or IPP. These services are governed by the Lanterman Act.

Student also provides no legal authority to adjudicate IEP issues arising under the IDEA and California special education law, with IPP claims arising under the Lanterman Act as Student has done here. Whether the regional center is responsible for providing in-home services to Student, under the auspices of her rights as a regional center consumer, is the subject of a Lanterman Act fair hearing, not an IDEA request for due process hearing. (Welf. & Inst. Code §§ 4710, 4711.)

Student seeks a joint hearing but offers no authority for conducting one. Unlike civil procedure rules in both state and federal court pertaining to tort claims, that allow for joint tortfeasors to be sued in the same case; neither the IDEA nor the Lanterman Act include procedures for joint hearings adjudicating claims for both statutes. This is not a tort action for which liability is apportioned among multiple parties. OAH has limited jurisdiction is special education matters. Apportioning responsibility among two public entities is outside OAH's jurisdiction in this special education matter. Student has failed to allege any new facts or any legal authority establishing jurisdiction.

Moreover, each statutory system has its own separate jurisdictional, procedural, and substantive rules related to the hearings prescribed to resolve disputes as to their services. A joint hearing would require reconciling conflicting procedural mandates. Student cites no legal authority reconciling the conflicting rules and procedures.

Student has not pled facts or offered legal authority establishing that Redwood Coast Regional Center is a public agency that falls within the jurisdiction of this IDEA due process hearing. Accordingly, Redwood Coast Regional Center is dismissed as a party.

ORDER

Student's due process hearing request is dismissed as to Redwood Coast Regional Center for lack of jurisdiction. This matter shall proceed against Northern Humboldt Union High School District as presently scheduled.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings