

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CENTRAL SCHOOL DISTRICT AND WEST END SELPA.

OAH CASE NUMBER 2021120302

ORDER GRANTING MOTION TO DISMISS ISSUES FOR
LACK OF JURISDICTION

FEBRUARY 17, 2022

On December 9, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Central School District and West End SELPA as Respondents. The Office of Administrative Hearings is referred to as OAH.

On February 8, 2022, both Central School District and West End Special Education Local Plan Area, or SELPA, filed a Motion to Dismiss Student's Issue Two. Further, West End SELPA requested that it be dismissed as a party. OAH received no response from Student.

STUDENT'S ISSUE TWO

Student's Issue Two alleges that Respondents violated Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. Respondents assert OAH lacks jurisdiction over these claims.

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education," and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a free appropriate public education to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), or the Americans with Disability Act (42 U.S.C. §§ 1201, et seq. Accordingly, Student's Issue Two is dismissed.

REQUEST TO DISMISS WEST END

West End SELPA asserts that it should be dismissed as a party because it is not a public agency involved in educational decisions involving Student and further that the complaint fails to allege that West End SELPA had an obligation to provide Student with a FAPE.

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 does not assert any facts alleging that West End SELPA provided special education or related services to Student during either the 2020 – 2021 school year or the 2021 – 2022 school year as set forth in Issue One. As the complaint does not allege a basis on which West End SELPA falls within OAH jurisdiction in this matter, West End SELPA is dismissed as a party. West End also asserts that Student released all claims against it as of the date of a fully executed settlement agreement, dated September 24, 2020. As it is being dismissed as a party due a failure to plead any facts on which jurisdiction can be established, that claim will not be reached in this order.

ORDER

1. Central and West End's Motion to Dismiss is granted as to Issue Two.
2. West End is dismissed as a party.
3. The matter will proceed as scheduled against Central School District as to the remaining issues.

IT IS SO ORDERED.

Claire Yazigi

Claire Yazigi

Administrative Law Judge

Office of Administrative Hearings