

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

OAK GROVE UNION SCHOOL DISTRICT AND
SANTA ROSA CITY SCHOOLS.

OAHS CASE NUMBER 2021120567

ORDER DENYING MOTION TO BE DISMISSED AS A PARTY

FEBRUARY 24, 2022

On December 16, 2021, Student filed a Request for Due Process Hearing, complaint, with the Office of Administrative Hearings, naming Oak Grove Union School District and Santa Rosa City Schools.

On February 17, 2022, Oak Grove filed a Motion to Be Dismissed as a Party, alleging that Oak Grove is not Student's school district of residence and Student has never enrolled in or attended any Oak Grove program. On February 24, 2022, Student filed an opposition.

APPLICABLE LAW

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to “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.)

Education Code section 48200 provides that a child subject to compulsory full-time education shall attend public school in the school district in which the child’s parent or legal guardian resides. The determination of residency under the Individuals with Disabilities Education Act or the Education Code is no different from the determination of residency in other types of cases. (*Union Sch. Dist. v. Smith* (9th Cir. 1994) 15 F.3d 1519, 1525.)

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 ... the provision of a FAPE 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 Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc.....), special education law does not provide for a summary judgment procedure.

DISCUSSION

Student's complaint alleges several violation of the IDEA by Oak Grove and Santa Rosa. Student alleges that Oak Grove denied her a free appropriate public education, called FAPE, by failing to develop an appropriate individualized education program, referred to as IEP, for Student. Student also alleges Oak Grove denied her of FAPE by failing to conduct assessments in all areas of suspected disability. Student contends Oak Grove denied her a FAPE by impeding Parent's participation in the IEP process.

Oak Grove asserts that it is not a proper party because Student was not a resident of the district and has never enrolled in or attended a school in the district. Attached to Oak Grove's motion were documents reflecting IEP team meetings convened by Oak Grove and correspondence showing Oak Grove offered to continue discussing Student's placement in an Oak Grove program. Based on the information in the complaint and Oak Grove's motion, the nature and extent of Oak Grove's obligation to Student requires an evidentiary hearing. Accordingly, Oak Grove's motion to be dismissed as a party is denied.

ORDER

1. Oak Grove's Motion to Dismiss is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

Marlo Nisperos

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Administrative Law Judge

Office of Administrative Hearings