

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

POMONA UNIFIED SCHOOL DISTRICT AND LOS ANGELES
COUNTY DEPARTMENT OF CHILD AND FAMILY SERVICES.

OAH CASE NUMBER 2022020046

ORDER DISMISSING LOS ANGELES COUNTY DEPARTMENT
OF CHILD AND FAMILY SERVICES AS A PARTY FOR
LACK OF JURISDICTION

FEBRUARY 24, 2022

On January 31, 2022, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, naming Pomona Unified School District and Los Angeles County Department of Child and Family Services. Los Angeles County Department of Child and Family Services will be referred to as DCFS. The Office of Administrative Hearings is referred to as OAH.

On February 16, 2022, DCFS filed a motion to be dismissed as a party. Student filed an opposition to the motion on February 17, 2022.

APPLICABLE LAW

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, called 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.)

DISCUSSION

Student's complaint contends DCFS denied Student access to his educational placement by removing him from his home with Parent and relocating Student to various placements outside the jurisdictional boundaries of Pomona Unified. Student also argues DCFS may have impeded Pomona Unified from timely assessing Student's needs for special education and related services.

DCFS argues that under the purview of the California Department of Social Services, DCFS provides social work services in cases that involve the abuse and neglect of children, not educational services. DCFS asserts that the California Department of Social Services is not tasked with providing social work services under the IDEA, nor did the Secretary of Health Human Services Agency designate DCFS with the responsibility of providing social work services to students eligible for special education and related

services. Therefore, DCFS contends it is not a proper party in this matter because it was not responsible for the identification, assessment, or educational placement of Student, or the provision of a free appropriate public education to Student.

Student's contention that DCFS could have avoided disruption to Student's educational placement at Pomona Unified by placing Student in a home within Pomona Unified's jurisdictional boundaries is unpersuasive. The non-educationally related detention and placement of Student by DCFS through juvenile court proceedings focused on Student's welfare and safety, does not equate to a determination of Student's special education placement, defined as the unique combination of facilities, personnel, location or equipment necessary to provide instructional services to a special education student as specified in the student's IEP. (Cal. Code Regs. tit. 5, § 3042. subd. (a).) Student's safety and wellbeing is paramount, and OAH does not have jurisdiction over DCFS's determination as to the availability and appropriateness of placements for a child under the jurisdiction of the juvenile court.

Student's complaint fails to allege facts of how DCFS was involved in the decision-making process related to the identification, evaluation, or educational placement of Student or in providing Student a free appropriate public education under the IDEA. Therefore, DCFS is not a proper party in this matter. Accordingly, OAH does not have jurisdiction over DCFS.

DCFS's motion to be dismissed as a party is granted. DCFS is dismissed as a party in Student's due process hearing request. This matter shall proceed against Pomona Unified as scheduled.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings