

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CHILDREN'S CHOICE FOR HEARING AND TALKING CENTER.

OAH CASE NUMBER 2024060002

ORDER DISMISSING CASE FOR LACK OF JURISDICTION

JUNE 13, 2024

On May 31, 2024, Parent, on behalf of Student, filed a Due Process Hearing Request, also called a complaint, with the Office of Administrative Hearings, called OAH naming Children's Choice for Hearing and Talking Center as respondent. On June 4, 2024, the Children's Choice school filed a request to dismiss Student's complaint on the grounds that the non-public school was not a proper party to the complaint. Student opposed the motion to dismiss on June 7, 2024.

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, also called 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.)

The complaint in this case names Children's Choice for Hearing and Talking Center as a responsible public agency. The complaint does not allege how Children's Choice for Hearing and Talking Center is a public agency over which OAH has jurisdiction.

Student's complaint alleges that the Children's Choice school is a non-public school. Student's opposition to the motion acknowledges that a non-public school is not a public agency. Student offers no persuasive argument, or legal authority, establishing that a non-public school falls within the definition of public agency and is thus subject to the jurisdiction of OAH pursuant to the IDEA. (34 C.F.R. 300. 33.)

ORDER

Student's due process hearing request is dismissed because OAH does not have jurisdiction over the Children's Choice for Hearing and Talking Center.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge. Office of Administrative Hearings