BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, NORTH COASTAL CONSORTIUM FOR SPECIAL EDUCATION, SAN DIEGO COUNTY OFFICE OF EDUCATION, AND CALIFORNIA DEPARTMENT OF EDUCATION.

OAH CASE NUMBER 2021050037

ORDER DENYING MOTION TO DISMISS SAN DIEGO COUNTY OFFICE OF EDUCATION AS A PARTY

JULY 1, 2021

On April 29, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, called OAH, naming San Dieguito Union High School District, North Coastal Consortium for Special Education, and San Diego County Office of Education. On May 17, 2021, OAH determined the complaint was insufficiently pled as to North Coastal Consortium and allowed Student 14 days to amend the complaint. On June 1, 2021, Student filed an amended complaint

naming the same three parties as respondents. On June 9, 2021, OAH determined Student's amended complaint was insufficiently pled as to North Coastal Consortium. OAH dismissed Issues One and Two as to North Coastal Consortium without further leave to amend the complaint with respect to that respondent.

On June 14, 2021, OAH determined Student's amended complaint was insufficiently pled as to San Diego County and allowed Student 14 days to amend the complaint. On June 18, 2021, Student filed a second amended complaint naming San Dieguito, North Coastal Consortium, San Diego County, and the California Department of Education. On June 22, 2021, San Diego County filed a Motion to Dismiss itself as a party to the case. On June 25, 2021, Student filed an opposition to San Diego County's motion.

San Diego County argues it is not a proper party to this case because Student's second amended complaint is insufficiently pled and because it is not responsible for the identification, assessment, or educational placement of Student, or the provision of a free appropriate public education to Student.

Student argues San Diego County is a proper party to this case because the second amended complaint alleges San Diego County denied Student a free appropriate public education by failing to fulfill its "child find" duties to Student, including identification, assessment, and eligibility for special education.

The purpose of the Individuals with Disabilities Education Act, referred to as IDEA, (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.)

There is no summary judgment procedure in special education cases. However, OAH will dismiss issues and parties not within its jurisdiction. 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 second amended complaint alleges Student resides within the jurisdictional limits of all named respondents, including San Diego County, for purposes of special education. It alleges San Diego County is a public agency that receives special education funding to provide administrative oversight of North Coastal Consortium. It further alleges North Coastal Consortium is a public agency that has oversight of San Dieguito's special education programs. San Dieguito is Student's school district of residence. Collectively, Student alleges these public agencies, along with the California Department of Education, failed to seek and serve Student, who the complaint alleges,

needed special education services. The duty to seek and serve is referred to as "child find." Determinations related to "child find" are within OAH's jurisdiction.

Simply having oversight over North Coastal Consortium does not translate to San Diego County being "involved in" decisions" regarding Student's special education program. However, the second amended complaint also alleges San Diego County provides case management to its member school districts for students placed in residential treatment centers. Student attended a residential treatment center during a portion of the time at issue in the complaint. Whether having case management responsibilities for students placed in residential treatment centers constitutes being "involved in" decisions regarding Student's educational program, and specifically, whether those responsibilities gave San Diego County "child find" duties with respect to Student, requires a finding of fact.

Because there is no summary judgement procedure in special education cases, OAH cannot determine whether San Diego County had "child find" duties with respect to Student without first holding a due process hearing. Accordingly, San Diego County's Motion to Dismiss itself as a party to this case is denied.

IT IS SO ORDERED.

Tara Doss

Tara Doss
Administrative Law Judge
Office of Administrative Hearings