BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LARCHMONT CHARTER SCHOOL.

OAH CASE NUMBER 2021030156

ORDER DENYING MOTION TO DISMISS

JULY 26, 2021

On March 3, 2021, Parents on behalf of Student, collectively referred to as Student, filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Larchmont Charter School. The Office of Administrative Hearings is referred to as OAH.

The due process hearing in the matter commenced on June 29, 2021. On July 21, 2021, while the due process hearing was pending, Charter filed a motion to dismiss. The motion contends that Charter is not liable to Student because, under the facts of this case, Charter is not the responsible local educational agency. On July 22, 2021, Student filed an opposition to the motion. On July 26, 2021, Charter School, without authorization, filed a reply to the opposition.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction such as civil rights claims, Section 504 claims, and enforcement of settlement agreements, special education law does not provide for a motion to dismiss which, as here, is akin to a motion for a directed verdict or nonsuit. The issues raised by the motion and Student's opposition to the motion will be decided in the written decision which will issue after the hearing.

Accordingly, the motion to dismiss is denied without prejudice. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

Elsa Jones

Elsa H. Jones
Administrative Law Judge
Office of Administrative Hearings