

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015030166

ORDER DENYING MOTION TO
DISMISS

On August 31, 2015, Student filed a Third Amended Complaint against Sacramento City Unified School District and Walnut Valley Unified School District.

On September 2, 2015, Sacramento City filed a motion to dismiss it from Issues Eight and Nine on the ground that Student did not reside within the jurisdictional boundaries of that district during the time frames alleged in the Complaint. No opposition has been filed.

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 IDEA 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.)

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

In Issue Eight and Nine, Student alleges she was denied a free appropriate public by both Walnut Valley Unified School District and Sacramento City during the 2015 extended school year and 2015 – 2016 school year. Sacramento City contends that Student no longer resides within its jurisdictional boundaries and relies on a prior OAH Order to support its position.

Specifically, the stay put Order in this case states that, once Student transferred out of Sacramento City, that district's duty to provide Student with a special education placement through her IEP ceased. However, the Order was expressly limited to the determination of Student's stay put placement. The Order was based, in part, on extrinsic evidence requested from the parties.

As such, the instant motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits regarding the determination of which district has jurisdiction over Student's program at the various time periods alleged in the Complaint. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

ORDER

Sacramento City's Motion to Dismiss is denied. The matter shall proceed as scheduled.

IT IS SO ORDERED.

DATE: September 24, 2015

/s/

COLE DALTON
Administrative Law Judge
Office of Administrative Hearings