

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FORTUNA UNION HIGH SCHOOL DISTRICT; FERNDALÉ UNIFIED SCHOOL DISTRICT; HUMBOLDT COUNTY OFFICE OF EDUCATION; and EUREKA CITY UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015091024

ORDER GRANTING MOTION TO DISMISS FERNDALÉ UNIFIED SCHOOL DISTRICT

On September 30, 2015, Ferndale Unified School District filed with the Office of Administrative Hearings a Motion to Dismiss, because it was not a responsible public agency since Student never resided within its boundaries during the times alleged in Student's complaint. On October 6, 2015, Student filed an opposition, which Student withdrew the next day, agreeing that Fortuna High School is not located within Ferndale's boundaries.

OAH received no response to the Motion to Dismiss from the other local educational agencies named in Student's complaint.

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.)

DISCUSSION

As Student was not a resident of Ferndale, nor did he receive any special education services from Ferndale, Ferndale's motion to dismiss is granted as it was not a responsible public agency for any period stated in the complaint.

ORDER

Ferndale's Motion to Dismiss is granted. Ferndale is dismissed as a party in the above-entitled matter and the matter will proceed as scheduled against the remaining parties.

IT IS SO ORDERED.

DATE: October 8, 2015

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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings