favorable decision. U.S.C.A. Const. Art. 3, § 1

and to move those programs to other school districts violated South Dakota law and the Individuals with Disabilities Education Act (IDEA). Count three pled a declaratory judgment action, claiming that the parents' due process rights were violated because the "decision to terminate services at SDSD and out-source such services to Brandon Valley constitutes a change to the IEP's for the affected students." Id. ¶ 60. Count four alleged a civil-rights action under 42 U.S.C. § 1983, claiming that the defendants had violated the IDEA and the parents' right to due process.[5]

The parents moved for a preliminary injunction, seeking to enjoin the Board from refusing to admit eligible students to the school, from discontinuing the services offered at the school's campus, from outsourcing its

that an administrative law judge could not order the Board to reestablish the educational programs at the school's Sioux Falls campus.

We conclude that the parents were not required to exhaust because, if their position was well founded and the Board's actions violated the IDEA, adequate relief likely could not have been obtained through the administrative process. *See Murphy v. Arlington Cent. Sch. Dist. Bd. of Educ.*, 297 F.3d 195, 199 (2d Cir.2002) (citing H.R. Rep. No. 296, 99th Cong., 1st Sess. 7 (1985)) ("Congress specified that exhaustion is not necessary if ... it is improbable that adequate relief can be obtained by pursuing administrative remedies."); *Digre v. Roseville Sch. Indep. Dist. No. 623*, 841 F.2d 245, 250 n. 3 (8th Cir.1988). Although the school is subject to the IDEA, see 34 C.F.R. 300.2(b)(iii), South Dakota's administrative rules contemplate that a school district, not the Board, be the local education agency subject to the administrative procedures. S.D. Admin. R. 24:05:15:05 (entitled, "Complaint against a school district"); 24:05:21:01 ("Each local education agency must have a current comprehensive plan approved by the school board on file with the district superintendent or designee."); 24:05:30:07.01 ("A parent or a school district may file a due process complaint on any matters relating to the identification, evaluation or educational placement of a ***793** child with a disability, or the provision of FAPE to the child."); 24:05:30:10.01 ("Nothing in this section precludes a hearing officer from ordering a district to comply with procedural requirements under this chapter."). We agree with the district court that "[i]n consideration of the administrative scheme, and as a practical matter, it may be more than improbable that a hearing officer could ultimately enforce an order to the Board of Regents to reverse its policy of cutting programs at the school's physical location and out-sourcing services to home school districts." D. Ct. Order of Sept. 30, 2010, at 13. Accordingly, we will consider the parents' cause of action under the IDEA.

[5]

fail or are plainly untenable."). The IDEA's integrated-classroom preference makes no exception for **deaf** students.

The parents contend that there exists a genuine issue of material fact whether a free appropriate public education could be offered in the absence of a school for the **deaf**. The parents have not alleged that their children are not "benefit[ting] educationally" in the programs and schools in which they are currently enrolled. *See Rowley,* 458 U.S. at 203, 102 S.Ct. 3034. The complaint explains that the students would prefer to attend programs at the school's campus and that the parents would prefer to enroll their children in a separate, language-rich school. Although it is arguable that a stand-alone school for the **deaf** might provide the best education for their children, the state is not required to make available the "best possible option." *See Springdale Sch. Dist. # 50,* 693 F.2d at 43 (emphasis omitted). Thus the parents have failed to allege facts to support their claim that the school's discontinuation of educational programs at the Sioux Falls campus violated the IDEA.

Furthermore, to the extent the parents have alleged that the Board violated the IDEA's procedural safeguards, they have given no reason why the notice provided by the school was inadequate. We thus conclude that the district court properly granted summary judgment in favor of the defendants on the IDEA cause of action.

C. Section 1983 Claim

The parents contend that Perry and Warner, sued in their individual capacities as the former and current executive director for the Board, are subject to liability under 42 U.S.C. § 1983 for violating the parents' due process rights. *See Digre,* 841 F.2d at 249–50 (holding that a plaintiff may bring a § 1983 action based on alleged violations of the Education of the Handicapped Act, 20 U.S.C. 1400 *et seq.* (1982)). The parents have failed to establish a violation of the IDEA, however, and have failed to point us to any facts supporting their claim that their constitutional rights were violated. Accordingly, their § 1983 cause of action fails.

D. Standing To Sue on Behalf of Students in the Auditory–Oral Program

[7] [8] [9] The parents do not have standing to bring the third count alleged in the complaint—that the decision to move the auditory-oral program to the Brandon Valley School District violated the plaintiffs' due process rights. "The doctrine of standing limits the jurisdiction of federal courts to 'those disputes which are appropriately resolved through the judicial process.' " *Braden v. Wal Mart Stores, Inc.,* 588 F.3d 585, 591 (8th Cir.2009) (quoting *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 560, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992)). To invoke the jurisdiction of a federal court, "a plaintiff must present a 'case' or 'controversy' within the meaning of Article III of the Constitution." *Id.* To meet the "irreducible constitutional minimum of standing," the plaintiffs must show that they have suffered an "injury in fact" that is "fairly traceable to the challenged action of the defendant," and "likely to be redressed by a favorable decision." *Id.* (quoting *Lujan,* 504 U.S. at 560–61, 112 S.Ct. 2130) (alterations omitted).

We conclude that the parents cannot show an "injury in fact" with respect to the third count. Although the parents have alleged a due process violation, none of them had children enrolled in the auditory-oral program at the school's campus during the 2008–2009 school year and none had children who were scheduled to participate ***795** in the program for the 2009–2010 school year. "Article III generally requires injury to the plaintiff's personal legal interest." *Braden,* 588 F.3d at 591.

[10] That the parents have brought a putative class action lawsuit cannot save the due-process claim on behalf of the auditory-oral students, who are not part of this law suit. "[I]f none of the named plaintiffs purporting to represent a class establishes the requisite of a case or controversy with the defendants, none may seek relief on behalf of himself or any other member of the class." *Littleton,* 414 U.S. 488, 494, 94 S.Ct. 669, 38 L.Ed.2d 674 (1974); *see Sabers v. Delano,* 100 F.3d 82, 84 (8th Cir.1996) (per curiam) ("Absent standing to bring the claim in her own right, [the plaintiff] is not eligible to represent a class of persons raising the same claim."). We thus conclude that judgment in favor of the defendants was appropriate on this count, as well.

E. Violation of South Dakota Constitution and Statutes

Finally, the parents argue that South Dakota's constitution, statutes, and common law require that the Board provide educational programs at the school's campus. As set forth more fully below, we conclude that the Board's actions did not violate South Dakota law.