

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

BURBANK UNIFIED SCHOOL
DISTRICT AND FOOTHILL SELPA &
LOS ANGELES COUNTY
DEPARTMENT OF MENTAL HEALTH.

OAH CASE NO. 2012050512

ORDER GRANTING FOOTHILL
SELPA'S MOTION TO DISMISS

On May 11, 2012, Parents on behalf of Student filed a Request for Due Process Hearing (complaint) naming as respondents the Burbank Unified School District (BUSD), the Foothill Special Education Local Planning Area (SELPA), and the Los Angeles County Department of Mental Health (CMH). The complaint contains 20 pages and alleges four issues. Issues one and two alleges that the District failed to provide Student with a free appropriate public education (FAPE). Issues three and four involve the relief that Student is seeking.

On May 17, 2012, SELPA filed a motion to dismiss the complaint only as to the SELPA. Student has not filed a response to the motion.

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.)

DISCUSSION

In its motion, the SELPA contends that it is not a proper party because (1) the complaint contains no allegations that it had any responsibilities to provide Student a FAPE, and (2) the SELPA did not provide any services to Student. Attached to the motion is a declaration from Sunita Batra, director of the SELPA. Ms. Batra declares that the SELPA has never provided any educational services to Student nor has it ever offered or assumed responsibility for providing any educational services to Student.

In the complaint, Student only makes one reference to the SELPA. Student alleges that BUSD “is a member of the Foothill SELPA and shares responsibilities and programming with the SELPA.” (Complaint, p. 6.) The complaint fails to allege any facts that the SELPA ever participated in making any decisions involving Student’s educational programming. In fact, the complaint alleges in detail the actions by the BUSD and CMH as to Student’s education program. Thus, there are no allegations that the SELPA was a “public agency involved in any decisions regarding pupil.” (Ed. Code § 56501, subd. (a).)

ORDER

The Foothill SELPA’s Motion to Dismiss is granted. The Foothill SELPA is dismissed as a party in the above-entitled matter. The matter will proceed as scheduled against the remaining parties.

IT IS SO ORDERED.

Dated: May 25, 2012

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings