

EFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

LEGAL GUARDIAN ON BEHALF OF  
STUDENT,

v.

PALM SPRINGS UNIFIED SCHOOL  
DISTRICT AND THE RIVERSIDE  
COUNTY SPECIAL EDUCATION LOCAL  
PLANNING AREA.

OAH CASE NO. 2013080834

ORDER GRANTING MOTION TO  
DISMISS THE RIVERSIDE COUNTY  
SPECIAL EDUCATION LOCAL  
PLANNING AREA

On August 23, 2013 Legal Guardian on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a request for due process hearing naming the Palm Springs Unified School District (District) and the Riverside County Special Education Local Planning Area (SELPA) as respondents.

On August 28, 2013, the SELPA moved to be dismissed as a party on grounds has no responsibility to provide Student with a free appropriate public education (FAPE) and has never had any contact with Student. Student has not filed a responsive pleading to the motion.

Special education law does not provide a summary judgment procedure, although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction and easily provable. Here, the sole issue is whether SELPA is a proper party, a matter easily proven without a formal summary judgment procedure.

In general, IDEA due process hearing procedures extends 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.) Thus, although a SELPA may fit the definition of “public agency” set forth in the IDEA, to be a proper party for a due process hearing the SELPA must also be involved in making decisions regarding a particular student.

Determination of whether the SELPA is a “public agency involved in any decisions regarding” Student requires a review of California statutes that define the role of SELPA’s.

Education Code sections 56195, 56195.1, and title 2, California Code of Regulations, section 60010 set forth the role of SELPA's. Specifically, a SELPA, meaning the service area covered by a special education local plan, shall administer the allocation of funds, and local plans submitted under Education Code section 56205.

Nothing in Education Code sections 56195 and 56195.1, renders a SELPA individually responsible to provide a free appropriate public education (FAPE) to, or make education decisions about, a particular student. The duty to administer the allocation of funds and local plans is not a duty to provide FAPE to individual students or a duty to make educational decisions for individual students.

In the present matter, Student's complaint contains no facts that allege that (1) SELPA is a public agency within the meaning of Education Code section 56501, subdivision (a), and (2) SELPA has been or will be involved in providing special education services to Student. In the letter motion by the SELPA, Dr. Sue Balt, the SELPA director, stated that the SELPA does not operate programs and that the SELPA was not aware of Student until it was served with the complaint.

Under the authority cited above, the IDEA places responsibility on a public agency, including a SELPA, if that public agency was involved in making decisions about that particular student. Student has not alleged any facts in the complaint, nor cited to any authority, that support a finding that SELPA is a proper party to this action.

Because Education Code sections 56195 and 56195.1, do not establish that the SELPA had an independent duty to provide a FAPE to Student, and the SELPA was not the entity making educational decisions about Student, the SELPA is entitled to dismissal because it is not a proper party under Education Code section 56501, subdivision (a).

#### ORDER

For the reasons stated above, The Riverside County Special Education Local Planning Area's motion is GRANTED. The matter will proceed as scheduled against only the Palm Springs Unified School District.

Dated: September 04, 2013

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings