

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LINCOLN UNIFIED SCHOOL DISTRICT.
AND SAN JOAQUIN COUNTY OFFICE
OF EDUCATION.

OAH CASE NO. 2013090535

ORDER GRANTING SAN JOAQUIN
COUNTY OFFICE OF EDUCATION'S
MOTION TO BE DISMISSED AS A
PARTY

PROCEDURAL BACKGROUND

On September 16, 2013, Student filed a Due Process Hearing Request¹ (complaint) naming the Lincoln Unified School District (LUSD) and the San Joaquin County Office of Education (SJCOE) as respondents. Student's complaint contained vague references to SJCOE, but the bulk of his allegations concerned LUSD. On September 18, 2013, LUSD filed a Notice of Insufficiency as to Student's complaint. On September 20, 2013, the Office of Administrative Hearings (OAH) filed an order finding, in pertinent part, that the first 13 issues in Student's complaint were insufficient and permitting Student to file an amended complaint. OAH dismissed issues 14 through 33 of the complaint with prejudice.

On October 8, 2013, Student filed an amended complaint. On October 10, 2013, LUSD timely filed a Notice of Insufficiency as to the amended complaint. On October 18, 2013, OAH found Student's amended complaint to be sufficient.

On October 23, 2013, SJCOE filed a motion to be dismissed as a party based upon the fact that Student did not name it in his amended complaint and does not reference SJCOE in the factual discussion or issues in the body of the amended complaint. Student has not filed an opposition or other responsive pleading to SJCOE's motion.

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

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.)

Student’s amended complaint does not specifically name SJCOE as a party respondent. Nor does the amended complaint contain any factual discussion regarding SJCOE. The issues stated by Student in his amended complaint, as clarified by OAH in its Order of October 18, 2013, finding the amended complaint to be sufficient, do not reference SJCOE or in any way make allegations that SJCOE has denied Student a free and appropriate public education. Student therefore has not alleged that SJCOE was involved in any decisions regarding his education. There is no connection between the allegations in Student’s amended complaint and SJCOE. For these reasons, SJCOE’s motion is granted.

ORDER

1. SJCOE’s motion to be dismissed as a party is granted.
2. The caption in this case shall now read “Student v. Lincoln Unified School District.”
3. This matter will proceed as scheduled against LUSD.

Dated: October 30, 2013

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings