

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACTON-AGUA DULCE UNIFIED  
SCHOOL DISTRICT, ACADEMY OF  
ARTS & SCIENCES AND EL DORADO  
COUNTY CHARTER SPECIAL  
EDUCATION LOCAL PLAN AREA.

OAH Case No. 2016040151

ORDER GRANTING EL DORADO  
COUNTY CHARTER SELPA'S  
MOTION TO DISMISS

On March 30, 2016, Student filed a Request for Due Process Hearing and Mediation (complaint) against Academy of Arts and Sciences, Acton-Agua Dulce Unified School District, and El Dorado County Charter SELPA (El Dorado SELPA). On April 1, 2016, El Dorado SELPA filed a Motion to Dismiss, alleging that it is not the public agency responsible for providing Student with a free appropriate public education. OAH received no response to the Motion to Dismiss from Student.

**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.)

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education” and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a

child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

In general, IDEA due process hearing procedures extend 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 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.

## **DISCUSSION**

Student’s complaint alleges that he has been denied FAPE beginning in late Spring 2014, when he was denied admission into a charter school which is managed by and affiliated with Academy of Arts and Sciences, based on his disability of autism. The complaint further alleges that the charter school for which Student sought placement was chartered by Acton-Agua Dulce Unified School District, which Student alleges is a member of El Dorado SELPA. The only reference to El Dorado SELPA in the complaint is the allegation that at all relevant times the charter school was “a member of the El Dorado County Charter SELPA.” Student seeks relief in the form of compensatory education.

The complaint does not allege that El Dorado SELPA was the public agency responsible for providing Student with a FAPE and does not allege that El Dorado SELPA operates any special education programs. The complaint does not allege that El Dorado SELPA is the Local Educational Agency responsible for providing special education services to Student. The complaint does not allege that El Dorado SELPA assumed any responsibility

for providing special education services to Student or that El Dorado SELPA was involved in any decisions regarding Student's special education program.

Although the El Dorado SELPA is a public agency which may provide special education and related services to a child with exceptional needs, Student provides no factual allegations in his complaint to establish that the El Dorado SELPA has had any involvement with the issues alleged in the complaint or had any contact with Student whatsoever. Given that Student states no allegations of IDEA violations against the El Dorado SELPA. It is not a proper party to the action.

### **ORDER**

El Dorado SELPA's Motion to Dismiss is granted, and it is dismissed as a party. Matter shall proceed against Academy of Arts and Sciences and Acton-Agua Dulce Unified School District.

DATED: April 7, 2016

DocuSigned by:  
*Vernon Boggy*  
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**VERNON BOGY**  
Administrative Law Judge  
Office of Administrative Hearings