

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ANTIOCH UNIFIED SCHOOL DISTRICT,  
SYNERGY EDUCATION PROJECT, AND  
CALIFORNIA STATE BOARD OF  
EDUCATION.

OAH Case No. 2016060398

ORDER GRANTING MOTION TO  
DISMISS CALIFORNIA STATE  
BOARD OF EDUCATION

On June 6, 2016, Student filed a Request for Due Process Hearing (complaint) naming Antioch Unified School District, Synergy Education Project and the California State Board of Education (SBE) as respondents.

On June 7, 2016, SBE filed a motion to be dismissed. On June 10, 2016, Student filed an opposition and on June 15, 2016, SBE filed a reply. As discussed below, SBE's motion is granted.

APPLICABLE LAW

Special educations 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.)

Statewide benefit charter schools are treated as a school district for all purposes. (Cal. Code Regs., tit. 5, § 11967.6, subd. (c).) Statewide benefit charter schools are their own local educational agencies for purposes of special education and related services. (Ed. Code, §§ 47641, subd. (a) & 56026.3)

SBE is generally responsible for policy-making and adopting rules or regulations detailing how state statutes are to be implemented at the school district level. (Ed. Code, §§ 33030 and 33031, subd. (c).) SBE may also serve as the authorizing agency for a charter school. (Ed. Code, § 47605.8.)

## DISCUSSION

The complaint alleges that Antioch School District violated several procedural and substantive requirements of the IDEA which denied Student a free appropriate public education from May 2012 through May 2015. The complaint further alleges that, in May 2015, Student was enrolled in Synergy Education Project and that Synergy failed to provide an assessment plan within 15 days of Parents' request for assessment, assessed Student without authorization and did not hold a meeting to discuss assessment reports. The only facts alleged as to SBE is that Synergy was a charter school approved by SBE. The complaint contains no facts about SBE, and no indication that it was a responsible public agency involved in any decisions regarding Student.

SBE contends Synergy was its own local educational agency for purposes of special education and related services citing Education Code sections 47641, subd. (a) and 56026.3. The caption of Student's complaint identifies SBE as a SELPA.<sup>1</sup> However, under the law and according to the allegations in Student's complaint, SBE is not a SELPA. Moreover, even if it were a SELPA, special education due process hearing procedures would extend to it only if it were allegedly involved in any decisions regarding Student. Under the allegations presented here, SBE was not a responsible public agency involved in any decisions regarding Student. Therefore, SBE will be dismissed a party.

## ORDER

California State Board of Education is dismissed a party.

IT IS SO ORDERED.

DATE: June 21, 2016

DocuSigned by:  
*Marian H. Tully*  
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MARIAN H. TULLY  
June 22, 2016  
Administrative Law Judge

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<sup>1</sup> A SELPA is the local service area covered by a local plan designed to coordinate responsibility for the special education services among the participating school districts which comprise its membership. (Ed. Code, § 56195 et seq.) The SELPA and participating districts enter into a joint powers agreement or other written contract with participating districts. (Ed. Code, §§ 56195.7, 56195.1 subd. (b).) The contract provides a governing structure and administrative support to implement the local plan. (Ed. Code, § 56595.1 subd. (b)(1).) The contract also delegates the responsible local entity or other administrative entity to provide distribution of funds, administrative support, and implementation of the local plan. (Ed. Code, § 56595.1 subd. (b)(3).)

