

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL
DISTRICT, AND

HARBOR REGIONAL CENTER.

OAH CASE NO. 2010071159

ORDER GRANTING HARBOR
REGIONAL CENTER'S MOTION TO
DISMISS; GRANTING BELLFLOWER
UNIFIED SCHOOL DISTRICT'S
MOTION TO DISMISS; AND
DISMISSING CASE WITHOUT
PREJUDICE

On July 26, 2010, Student filed a Request for Due Process Hearing (complaint), naming Bellflower Unified School District (District) and Harbor Regional Center (Regional Center).

On August 5, 2010, the Regional Center filed a Motion to Dismiss, alleging that the Office of Administrative Hearings (OAH) lacked jurisdiction over services provided by regional centers in cases filed under state and federal special education law.

On August 17, 2010, District filed a Motion to be dismissed from this matter, contending that it is entitled to a dismissal because Student's complaint makes no allegation against District and requests nothing from District. On the same day, District submitted its opposition to the Regional Center's Motion to Dismiss.

OAH received no response from Student to District's or Regional Center's Motion to Dismiss.

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” (FAPE), 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.)

OAH has jurisdiction over public agencies under the IDEA, pursuant to Education Code section 56500 et seq., but not over regional centers providing services under California Early Intervention Services Act (Gov. Code, §§ 95000 et seq.), commonly known as Early Start, created by Part C of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1401, et seq.), which provides services to eligible infants and toddlers from the date of birth until the child's third birthday. (Gov. Code, § 95014.) Regional centers are subject to hearing procedures pursuant to Welfare and Institutions Code section 4700 et seq.

DISCUSSION

In the present matter, the Regional Center asserts that OAH lacks jurisdiction over regional centers, because it is not involved in providing special education services to Student. The Regional Center is not a public agency that has provided Student with special education services, or has been involved in decisions about Student’s individualized educational program under the Education Code section 56500 et seq. and IDEA. Therefore, the Regional Center’s Motion to Dismiss is granted as it is not an appropriate party to this matter.

Also, and regarding District’s Motion to Dismiss, District is correct that a parent raises no allegation against District, and Student has requested nothing from District as a proposed resolution. Student, in his complaint, alleges that “Student was denied ESY [extended school year] services from Harbor Regional Center . . . , knowing Student does not qualify for services through Bellflower Unified School District until September 1, 2010” For the proposed resolution, Student requests that the Regional Center continue providing ESY services to Student at the Speech and Language Development Center. Therefore, as Student’s complaint involves no matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to Student by District, District Motion to Dismiss is properly brought. District’s Motion to Dismiss is granted and District is also dismissed from this matter.

This Order dismisses from the matter every named party except Student, leaving no party from whom relief can be obtained. The complaint is therefore dismissed without prejudice to the filing of a complaint naming proper parties.

ORDER

1. The Regional Center's Motion to Dismiss is granted. Harbor Regional Center is dismissed as a party in the above-entitled matter.
2. District's Motion to Dismiss is granted. Bellflower Unified School District is dismissed as a party in the above-entitled matter.
3. Student's complaint is dismissed without prejudice.

IT IS SO ORDERED.

Dated: August 23, 2010

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings