

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT AND WEST END SPECIAL
EDUCATION LOCAL PLAN AREA.

OAH CASE NO. 2010120687

ORDER GRANTING MOTION TO
DISMISS WEST END SELPA

On December 20, 2010, counsel for Student (Student) filed a request for due process hearing (complaint) naming the West End Special Education Local Plan Area (SELPA) as a respondent. On December 22, 2010, counsel for the SELPA filed a motion to dismiss itself as a party, contending that Student failed to state a cause of action against the SELPA. No opposition has been filed by Student or Chino Valley School District (District).

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.)

DISCUSSION

Student's complaint alleges four issues: (1) the District failed to assess Student in all areas of suspected need; (2) Student's Individualized Educational Plan (IEP) failed to state accurate present levels of performance and did not provide Student with measurable goals; (3) the District failed to provide Student with a free appropriate public education (FAPE); and (4) the District committed procedural violations which resulted in denial of FAPE.

Although the 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 SELPA has had any involvement with the four issues contained in the complaint or had any contact with Student whatsoever. Given that Student avers no allegations of IDEA violations against the SELPA and seeks no remedy from it, the Office of Administrative Hearings has no jurisdiction over the SELPA, and therefore it is dismissed from Student's complaint.

ORDER

The West End SELPA's motion to dismiss itself from the above-entitled complaint is granted. The matter will proceed as scheduled against the Chino Valley Unified School District.

IT IS SO ORDERED.

Dated: December 28, 2010

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings