

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

COACHELLA VALLEY UNIFIED  
SCHOOL DISTRICT AND RIVERSIDE  
COUNTY SPECIAL EDUCATION LOCAL  
PLAN AREA.

OAH CASE NO. 2011020716

ORDER DENYING MOTION TO  
DISMISS

On February 18, 2011, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Coachella Valley Unified School District (District) and Riverside County Special Education Local Plan Area (SELPA) as respondents. On February 22, 2011, SELPA filed a Motion to be Dismissed as a Party, arguing that SELPA “has had no contact with the family and has no involvement in her case.” On February 23, 2011, Student filed an opposition, arguing that SELPA’s name has been on each of Student’s Individualized Education Plan (IEP) documents, assessment plans, progress reports and amendments.

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.) Thus, a SELPA may be a proper party when it has been involved in any decisions regarding a pupil.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc....), special education law does not provide for a summary judgment procedure. Here, the Motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits of whether the facts will establish SELPA’s involvement with Student. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

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<sup>1</sup> 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).

ORDER

Riverside County Special Education Local Plan Area's Motion to Dismiss is denied.  
The matter shall proceed as scheduled.

Dated: February 24, 2011

/s/

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JUNE R LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings