

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRUITVALE SCHOOL DISTRICT, KERN  
COUNTY SUPERINTENDENT OF  
SCHOOLS, AND KERN COUNTY  
CONSORTIUM SELPA.

OAH CASE NO. 2012030900

ORDER GRANTING MOTION TO  
DISMISS KERN COUNTY  
CONSORTIUM SELPA AS A PARTY

On March 22, 2012, Parent, on behalf of Student, filed a Request for Due Process Hearing (complaint), naming Fruitvale School District (District), Kern County Superintendent of Schools (Superintendent) and Kern County Consortium Special Education Local Plan Area (SELPA) as Respondents.

On March 29, 2012, Respondents filed a Motion to Dismiss Due to Lack of Jurisdiction, alleging that Student’s complaint contains allegations that deal only with issues outside Education Code section 56501(a) and, therefore, the Office of Administrative Hearings (OAH) does not have jurisdiction over these issues. On April 13, 2012, OAH dismissed four of the five issues in Student’s complaint.

The sole remaining issue in the complaint alleges that Student was denied SELPA services (speech and language services) and he continues to have needs in the areas of speech, socialization and behavior. Student’s proposed resolution is that SELPA provide these services.

On April 19, 2012, Respondent SELPA filed a motion to dismiss it on the grounds that it does not provide any special education services to Student nor is it involved in any decision relating to Student, and it does not deliver a free and appropriate public education (FAPE) for students in Kern County. 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.)

#### DISCUSSION

In the present matter, the SELPA contends that it is not a public agency involved in any decisions regarding Student’s education. In this case the SELPA provides funding to various school districts in its area, including the District where Student attends school. The SELPA contends that the District is the local educational agency which may be responsible for providing Student a FAPE. The SELPA asserts that even though it is a public agency, it was never involved with, nor is it responsible for making any decisions with regard to Student.

#### ORDER

Repondent’s Motion to Dismiss as to the SELPA is granted. The matter will proceed as scheduled against the remaining parties.

IT IS SO ORDERED.

Dated: April 24, 2012

/s/  
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TROY K. TAIRA  
Administrative Law Judge  
Office of Administrative Hearings