

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

WEST COVINA UNIFIED SCHOOL
DISTRICT, ET AL.

OAH CASE NO. 2013070381

ORDER GRANTING EAST SAN
GABRIEL VALLEY SPECIAL
EDUCATION LOCAL PLAN AREA'S
MOTION TO DISMISS

On July 9, 2013, Student's parents on behalf of Student (Student) filed a request for due process hearing (complaint), naming the West Covina Unified School District (District), the East San Gabriel Valley Special Education Local Plan Area (SELPA), and others as the respondents.

On July 18, 2013, the SELPA filed a motion to dismiss, contending that the SELPA has not been involved in any educational decisions for Student, has not provided any educational services directly to Student, and is not a proper party to this action. On July 19, 2013, Student filed an opposition. On July 22, 2013, the SELPA filed a reply.

APPLICABLE LAW

Parents have 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).) The Office of Administrative Hearings (OAH) has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act (IDEA). (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Special education due process hearing procedures extend to the parent or guardian, to the pupil 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

Student does not allege that the SELPA provided any educational services to Student beyond its general oversight of the various school districts in its jurisdiction. Student's due

process request contains only general allegations regarding the SELPA without specific facts to support those allegations.

For example, at one point, Student alleges that: “Respondents, District, SELPA & LACOE, first assessed [Student] for special education eligibility in May 2009.” However, Student recites no facts showing any direct involvement by the SELPA or any employee of the SELPA in that assessment. Student’s opposition to the motion to dismiss, likewise, does not contend that any employee of the SELPA, in fact, participated in any assessment of Student. Instead, Student maintains that its allegations are appropriate because the SELPA’s name appears on the forms used by the District and the SELPA had oversight responsibilities for the District (as well as the other school districts contained within the SELPA). Student attaches a lengthy document to the opposition which contains general information about the responsibilities of a special education local plan area in California.¹

Similarly, Student’s fourth issue contends that “the District & SELPA . . . denied FAPE . . . causing a loss of educational opportunity when it failed to fully implement” Student’s individualized education program (IEP). Once again, there are no facts to link the SELPA to such conduct besides its general oversight of the District. Other issues raised by Student in the due process request contain similar, general allegations against the SELPA that are not supported by specific facts.

The SELPA submits a declaration with its motion to dismiss which establishes that the SELPA did not have any direct involvement with Student’s education and did not provide any special education or related services directly to Student. Student’s opposition does not contest this, but maintains that the SELPA, because of its oversight responsibilities, is a necessary and proper party to this due process case.

Student is mistaken. The SELPA’s oversight of the school districts within it does not make it an LEA or constitute the provision of educational services to an individual child. (See Order Granting Motion to Dismiss Party dated December 17, 2009, *Parent on Behalf of Student v. Saddleback Valley Unified School District*, OAH case number 2009110619; Order Granting Special Education Local Planning Area’s Motion to Dismiss dated July 28, 2009, *Parent on Behalf of Student v. Panama-Buena Vista Union School District*, OAH Case number 2009050651.)

Student also alleges that the SELPA and the District “are designated” on Student’s IEP documents as “local education agencies,” but Student provides no *facts* to support its contention that the SELPA was Student’s LEA. Apparently Student alleges this because the SELPA’s name appears on various documents used by the District for Student’s educational program. However, just because a District uses a form document which contains the

¹ By contrast, Student’s complaint makes specific allegations regarding the District’s and the Los Angeles County Office of Education’s involvement in Student’s assessments and education.

SELPA's name does not make the SELPA a proper party to a due process case. The key is whether the SELPA was providing special education or related services to this particular Student. (See Order Granting Foothill SELPA's Motion to Be Dismissed, dated October 22, 2012, *Parent on Behalf of Student v. Burbank Unified School District*, OAH case number 2012100337.)

Student has made no showing that the SELPA provided any services to Student beyond its general oversight for all school districts within the SELPA. Student has alleged no facts to show that the SELPA is a necessary or proper party to this case.

ORDER

1. The SELPA's Motion to Dismiss is granted.
2. The SELPA is hereby dismissed as a party in the above-entitled matter.
3. The matter will proceed as scheduled with the remaining parties.²

IT IS SO ORDERED.

Dated: July 26, 2013

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings

² The California Department of Education was previously dismissed from this case under a separate order.