

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ROSEVILLE CITY ELEMENTARY
SCHOOL DISTRICT, ROSEVILLE JOINT
UNION HIGH SCHOOL DISTRICT AND
PLACER COUNTY OFFICE OF
EDUCATION.

OAH CASE NO. 2013080295

ORDER GRANTING IN PART
PLACER COUNTY OFFICE OF
EDUCATION'S MOTION TO DISMISS

On August 5, 2013, Parent on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing naming the Roseville City Elementary School District (RCSD), the Roseville Joint Union High School District (RJU), and the Placer County Office of Education (COE)

On August 9, 2013, COE filed a Motion to Dismiss, alleging that it is not an appropriate party to this action because it is merely a service provider and not responsible for providing Student with a free appropriate public education (FAPE).¹ On August 21, 2013, Student filed an opposition. RCSD and RJU did not submit a response.

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.)

¹ COE did not submit proof that it served a copy of its motion to dismiss on the other parties until August 19, 2013.

DISCUSSION

COE contends that it is not responsible for providing Student with a FAPE because Student was a resident of RCSD for elementary and middle school and is presently a resident of RJU for high school. He attended a special day class (SDC) operated by COE pursuant to an individual educational program entered into by RCSD and RJU from 2011 through the present.

For Issues 1 through 4, Student does not allege that COE denied Student a FAPE as the allegations are solely against RCSD and RJU. Therefore, because Student does not allege that COE denied Student a FAPE in these issues, Student cannot then request any of the proposed resolutions in Issues 1 through 4 requiring that COE provide specified services for RCSD's or RJU's purported denial of FAPE. Accordingly, Issues 1 through 4 are dismissed as to COE.

Regarding Issues 5 and 6, while Phillip Williams, COE's Associate Superintendent, Student Services, states that RCSD and RJU are responsible for providing Student with a FAPE, and COE is merely as service provider, Mr. Williams does not dispute that COE provided special education services to Student, which makes COE a responsible public agency pursuant to Education Code sections 56500 and 56028.5. (See *Student v. Montebello Unified School District, Los Angeles County Office of Education, and Bellflower Unified School District* (2009) Cal.Offc.Admin.Hrngs.Case No. 2008090354, pp. 38-39.) Additionally, Student alleged that she was injured in the care of COE and COE violated Parent's procedural rights, so a triable issue for hearing exists as to COE's involvement in special education decisions regarding Student. (Ed. Code, § 56501, subd. (a).) Therefore, COE's motion to dismiss Issues 5 and 6 is denied.

ORDER

1. COE's Motion to Dismiss is granted as to Issues 1, 2, 3 and 4.
2. COE's Motion to Dismiss Issues 5 and 6 is denied.
3. The matter will proceed as scheduled.

Dated: August 21, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings