

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DIXON UNIFIED SCHOOL DISTRICT,
DIXON MONTESSORI CHARTER
SCHOOL, SOLANO COUNTY SPECIAL
EDUCATION LOCAL PLAN AREA &
FAIRFIELD SUISUN UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013090674

ORDER GRANTING MOTION TO
DISMISS SOLANO COUNTY
SPECIAL EDUCATION LOCAL PLAN
AREA AS A PARTY

On September 20, 2013, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming the Dixon Unified School District (DUSD), Dixon Montessori Charter School, Solano County Special Education Local Plan Area (SELPA) and Fairfield Suisun Unified School District. On October 15, 2013, the SELPA filed a Motion to Dismiss, alleging that it was not a responsible public agency. OAH received no response to the Motion to Dismiss from Student or any other party.

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, Student contends that the SELPA denied Student a free appropriate public education (FAPE) because of its written policy that its members, such as DUSD, must follow in a parent’s choice of a district funded independent assessor. The SELPA asserts that the fact that it has a policy regarding the selection of independent assessors does not make it a responsible public agency as it was not involved in DUSD’s

decision whether to fund the independent assessor Parents chose in this matter. Student's complaint does not contain any allegations, other than the SELPA policy, that the SELPA was involved in DUSD's decision not to fund Parents' requested independent assessor. While DUSD may have relied on that policy in making its decision, that reliance does not make the SELPA a responsible public agency. Student is not left without a remedy as Student can still challenge whether DUSD's reliance on the SELPA policy denied him a FAPE or file a compliance complaint against the SELPA with the California Department of Education regarding the SELPA's policy. Accordingly, the SELPA is dismissed as a party.

ORDER

The SELPA's Motion to Dismiss it as a party is granted. The matter will proceed as scheduled against the remaining parties.

Dated: October 22, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings