

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF  
EDUCATION; WEST COVINA UNIFIED  
SCHOOL DISTRICT; EAST SAN  
GABRIEL VALLEY SELPA.

OAH CASE NO. 2014020405

ORDER DENYING EAST SAN  
GABRIEL VALLEY SELPA'S  
MOTION TO BE DISMISSED

Student filed a request for due process hearing (complaint) on February 10, 2014, naming Los Angeles County Office of Education, West Covina Unified School District (District), East San Gabriel Valley SELPA (SELPA), and California Department of Education as respondents. In pertinent part, Student alleged that District and SELPA denied Student a free appropriate public education (FAPE), by inappropriately assessing Student; failing to offer appropriate goals in Student individualized educational programs (IEP's); failing to offer appropriate placements and services, and other procedural and substantive denials of FAPE. As to SELPA, Student alleged that SELPA and District were both responsible for the above failures and were both designated on Student's IEP documents as "local education agencies." On February 20, 2014, SELPA filed a motion to be dismissed as a party, arguing that it did not actually have any involvement in Student's educational program. Student did not file an opposition or response to the motion. For the reasons discussed below, SELPA's motion to be dismissed from the complaint is denied. The allegations of the complaint are sufficient. SELPA's objections are factual in nature and may be addressed, and the relevant evidence adduced, at hearing.

APPLICABLE LAW

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.* (9<sup>th</sup> Cir. 2000) 223 F.3d 1026, 1028-1029.)

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 under California law as "a school district, county office of education, special education local plan area, . . . or any other public agency under the auspices of the state or any political subdivisions of the state providing special education or

related services to individuals with exceptional needs.” (Ed. Code, §§ 56500, 56028.5.) The term “public agency” includes state educational agencies (SEA), local educational agencies (LEAs), “and any other political subdivisions of the State that are responsible for providing education to children with disabilities.” (34 C.F.R. § 300.33 (2006).)

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.

#### DISCUSSION

SELPA is within the definition of a “public agency” and if, as alleged in the complaint, SELPA was “involved in any decisions regarding” Student, it is a proper party to the complaint. SELPA’s arguments are factual, based upon its assertion that it was not involved in decisions regarding Student. However, based on the allegations in the complaint, a factual dispute exists. Here, the Motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits, which are appropriately determined by the hearing officer after evidentiary findings have been made. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

#### ORDER

East San Gabriel Valley SELPA’s Motion to be dismissed is denied. All dates are confirmed.

DATE: March 04, 2014

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings