

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN JUAN UNIFIED SCHOOL DISTRICT
AND YUBA CITY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014120573

ORDER GRANTING MOTION TO
DISMISS REGIONAL CENTER

On December 5, 2014, Student filed a Request for Due Process Hearing (complaint), naming San Juan Unified School District, Yuba City Unified School District, and Alta California Regional Center as the respondents.

On December 5, 2014, Regional Center filed a Motion to Dismiss, alleging that it was not an entity responsible for educational decisions of students with special needs and therefore not obligated to comply with the IDEA, that it cannot be subject to a due process hearing under the IDEA and California Education Code, and that claims against any regional center must be addressed through the fair hearing process under Welfare and Institutions Code section 4700 et seq.

On December 11, 2014, Student filed an opposition, in which Yuba City USD joined on December 16, 2014. On December 12, 2014, Regional Center filed a reply, asserting that pursuant to statute, regional centers are not public agencies and, for that reason, Regional Center is an improper party in this special education due process case.

DISCUSSION

Special education due process hearings 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.)

Under the Lanterman Act, regional centers are not state/public agencies, but rather are “private nonprofit community agencies . . . utilized by the state for the purpose of operating regional centers.” (Welf. & Inst. Code, § 4620, subd. (b).) OAH’s Special Education Division is vested with jurisdiction over public agencies, pursuant to Education Code section

56500 et seq., under the IDEA, but not over regional centers, which are subject to fair hearing procedures pursuant to Welfare and Institutions Code section 4700 et seq.

In application of the authority cited above, Student's special education due process complaint fails to properly name Regional Center as a respondent. Dismissal of Regional Center is without prejudice to Student pursuing a fair hearing against Regional Center under Welfare and Institutions Code section 4700 et seq.

ORDER

1. Regional Center's Motion to Dismiss is granted.
2. Regional Center is dismissed as a party in the above-entitled matter, and its name is stricken from the caption.
3. The matter will proceed as scheduled against the remaining parties.

DATE: December 17, 2014

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings