

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST COVINA UNIFIED SCHOOL
DISTRICT AND WALNUT VALLEY
UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015030323

ORDER DENYING WALNUT
VALLEY UNIFIED SCHOOL
DISTRICT'S MOTION TO DISMISS

On March 5, 2015, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming both West Covina Unified School District and Walnut Valley Unified School District. On May 13, 2015, Walnut Valley filed a Motion to Dismiss, alleging that it is not a responsible public agency to provide Student with a free appropriate public education because Student is a resident of West Covina, which is responsible for all aspects of Student's education. On May 15, 2015, Student filed an opposition, and West Covina filed its opposition on May 18, 2015, which both contended that Walnut Valley is a responsible public agency since Student received special education services at a program operated by Walnut Valley.

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

Walnut Valley contends that it is not the responsible public agency for providing Student with a FAPE because Student is a resident of West Covina and attended an autism program operated by Walnut Valley pursuant to an individual educational program created by West Covina. While Walnut Valley contends that it did not control, direct, or participate in any final IEP decisions, including placement, Walnut Valley is alleged to have provided

special education services to Student, which makes Walnut Valley 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.Ofc.Admin.Hrngs. Case No. 2008090354, pp. 38-39.) Additionally, because Student alleged that Walnut Valley evaluated Student and convened IEP team meetings, a triable issue for hearing exists as to Walnut Valley's involvement in special education decisions regarding Student. (Ed. Code, § 56501, subd. (a).) Accordingly, Walnut Valley's motion to dismiss is denied.

ORDER

Walnut Valley's motion to dismiss is denied.

IT IS SO ORDERED.

DATE: May 22, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings