BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

COMMUNITY ROOTS ACADEMY AND EL DORADO CHARTER SPECIAL EDUCATION LOCAL PLAN AREA,

OAH CASE NUMBER 2020100158

and

COMMUNITY ROOTS ACADEMY,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020090033

ORDER GRANTED EL DORADO CHARTER SPECIAL EDUCATION LOCAL PLAN AREA'S MOTION TO DISMISS

OCTOBER 26, 2020

On September 1, 2020, Community Roots Academy filed a Request for Due Process Hearing, called complaint, with the Office of Administrative Hearings, known as OAH, in case number 2020090033, First Case, naming Student.

On October 2, 2020, Student filed a complaint in OAH case number 2020100158, Second Case, naming Community Roots Academy and El Dorado Special Education Local Plan Area, called El Dorado Charter SELPA. The same day, Student filed a Motion to Consolidate First Case with Second Case.

On October 9, 2020, the Office of Administrative Hearings granted the motion to consolidate First Case with Second Case and designating the Second case as the primary case in this matter.

On October 20, 2020, El Dorado Charter SELPA filed a Motion to Dismiss itself as a party to Second Case. Neither Student nor Community Roots Academy filed an opposition to the motion.

APPLICABLE LAW

Special education due process hearing procedures extend to the parent or guardian, the student in certain circumstances, and the public agency involved in any decisions regarding the student. (Ed. Code § 56501(a).) A "public agency" is defined as a school district, county office of education, special education local plan area, a nonprofit charter school that is not otherwise included as a local educational agency

and is not a school within a local educational agency, or any other public agency providing special education or related services to individuals with exceptional needs. (Ed. Code §§ 56500 and 56028.5.)

DISCUSSION

El Dorado Charter SELPA's motion asserts, through declarations under penalty of perjury, that it should be dismissed as a party because:

(1) it does not operate special education programs;

(2) it is not the local educational agency responsible for providing special education services to Student;

(3) it has not been involved in any decisions regarding Student's educational program; and

(4) Student's complaint fails to make specific allegations regarding its involvement with Student's educational program.

On its face, Student's complaint does not allege that El Dorado Charter SELPA is a public agency involved in any decisions regarding Student or that it is responsible for providing special education or related services to Student. Thus, El Dorado Charter SELPA is not a proper party.

ORDER

1. El Dorado Charter SELPA's Motion to Dismiss is granted.
2. El Dorado Charter Special Education Local Plan Area is dismissed as a party to Second Case, OAH case number 2020100158.

3. The matter will proceed as scheduled against Community Roots Academy.

DocuSigned by:
Cynthia Fritz
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Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings