BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: STUDENT, v. THE CHARTER SCHOOL OF SAN DIEGO AND EL DORADO COUNTY CHARTER SPECIAL EDUCATION LOCAL PLAN AREA.	OAH Case No. 2014030133 ORDER GRANTING MOTION TO DISMISS EL DORADO COUNTY CHARTER SPECIAL EDUCATION LOCAL PLAN AREA AS A PARTY

On March 4, 2014, Student filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (complaint), naming The Charter School of San Diego (San Diego) and El Dorado County Charter Special Education Local Plan Area (SELPA) as respondents.

On March 14, 2014, SELPA filed a Motion to Dismiss on the grounds that it is not a proper party, as it is not a public agency responsible for providing Student with a free appropriate public education (FAPE), and because Student has failed to allege that it provided any services to Student. Student has not filed a response to the Motion to Dismiss SELPA as a 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.)

Determination of whether SELPA is a "public agency involved in any decisions regarding" Student requires a review of California statutes that define the role of SELPA's. Education Code sections 56195, 56195.1, and title 2, California Code of Regulations, section 60010, set forth the role of SELPA's. Specifically, a SELPA, meaning the service area covered by a special education local plan, shall administer the allocation of funds and local plans submitted under Education Code section 56205. Nothing in Education Code sections

56195 and 56195.1 renders a SELPA individually responsible to provide a FAPE to, or make education decisions about, a particular student. The duty to administer the allocation of funds and local plans is not a duty to provide FAPE to individual students or a duty to make educational decisions for individual students.

DISCUSSION

In his complaint, Student contends "the District" denied him a FAPE from May 15, 2012, to July 1, 2013, when it failed to: create an appropriate individualized education program (IEP); provide meaningful and measureable goals; provide appropriate services; provide an appropriate placement; and hold multiple IEP team meetings.[1] Although SELPA fits the definition of a "public agency" set forth in the Individuals with Disabilities Education Act (IDEA), to be a proper party for a due process hearing, SELPA must also be involved in making decisions about or providing services to Student. Student's complaint contains no allegations that SELPA was involved in any decisions regarding Student or was responsible for the provision of any special education or related services. SELPA's motion is supported by the sworn declaration of its Director, Amy Andersen, under penalty of perjury, which attests that SELPA, in fact, had no such involvement. Student has not established that SELPA is a proper party under Education Code section 56501, subdivision (a), and SELPA is entitled to dismissal.

ORDER

SELPA's motion to be dismissed as a party is granted. This matter will proceed as scheduled against San Diego only.

IT IS SO ORDERED.

DATE: March 24, 2014

/s/
THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

[1] Student does not identify which respondent is "the District."