BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MANTECA UNIFIED SCHOOL DISTRICT AND SAN JOAQUIN COUNTY OFFICE OF EDUCATION.	OAH Case No. 2015120472 ORDER GRANTING MOTION TO DISMISS SAN JOAQUIN COUNTY OFFICE OF EDUCATION

On December 10, 2015, Student filed with the Office of Administrative Hearings a request for due process hearing (complaint) naming Manteca Unified School District and the San Joaquin County Office of Education.[1] On December 10, 2015, San Joaquin filed a Motion to be Dismissed as a Party on the grounds that it was not a proper party to this action. San Joaquin's motion is supported by a declaration under penalty of perjury of its Assistant Superintendent of Special Education and SELPA Director. Student has not filed a response.

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

In this case, Student's complaint fails to make any allegations against San Joaquin and does not contain any factual assertions that San Joaquin was involved in making any

[1] On the first page of his complaint, Student indicates that he will refer to the San Joaquin County Office of Education as "SELPA" and informs Manteca and their "SELPA" that a complaint has been filed against them. Student served his complaint on Manteca and the San Joaquin County Office of Education. San Joaquin and SELPA are separate and independent local education agencies.

decisions regarding Student or that it provided special education or related services to Student or had a duty to provide such. All of the allegations in Student's complaint pertain solely to Manteca. Aside from the first page of Student's complaint which addresses this action to San Joaquin (aka "SELPA"), and one reference in one proposed resolution ("The Respondents and their agents and employees responsible for the District/SELPA's breach of the Student's FAPE be ordered to participate in 15-hours of training ... ."), there is no other mention of San Joaquin. There are no claims or facts alleging San Joaquin is a public agency involved in any educational decisions regarding Student or in the provision of special education to Student. There is no indication that San Joaquin had any involvement in Student's educational program.

In its motion, San Joaquin contends that it is not a public entity involved in any educational decisions regarding the provision of special education to Student and that it has not proposed or refused to change Student's education program. Student has not refuted San Joaquin's contention that Student has not attended a program operated by San Joaquin nor received any services from San Joaquin. Rather, Student has attended Mossdale Elementary School within Manteca's boundaries at all relevant time frames. Student has not provided any evidence that San Joaquin is a responsible public agency in this matter. San Joaquin is not a proper party under Education Code section 56501, subdivision (a). Therefore, San Joaquin's motion to be dismissed as a party is granted.

ORDER

San Joaquin's Motion to be Dismissed as a party is granted. The matter will proceed as scheduled only as to Manteca.

IT IS SO ORDERED.

DATE: December 18, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings