

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

LUCERNE VALLEY UNIFIED SCHOOL DISTRICT, INNOVATIVE
EDUCATION MANAGEMENT, AND SKY MOUNTAIN CHARTER
SCHOOL.

OAH CASE NO. 2019060561

ORDER GRANTING MOTION TO DISMISS LUCERNE
VALLEY UNIFIED SCHOOL DISTRICT AS A PARTY

On June 13, 2019, Parent on behalf of Student filed a Request for Due Process Hearing, also referred to as a complaint, with the Office of Administrative Hearings, naming Lucerne Valley Unified School District, Innovative Education Management, and Sky Mountain Charter School.

On June 17, 2019, Lucerne Valley Unified filed a motion to be dismissed as a party. Lucerne Valley Unified contends that Student's complaint does not raise any claims against Lucerne Valley Unified. Furthermore, Lucerne Valley Unified contends it is not a proper party in this matter as it has not provided Student with special education

or related services, has not assessed him, or been involved in any decisions regarding his educational program.

On June 18, 2019, Innovative Education Management and Sky Mountain filed a non-opposition to the motion. Student did not file a response to the motion.

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.)

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education”, and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The

jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

DISCUSSION

Student's complaint is absent of any allegations against Lucerne Valley Unified with respect to any matter relating to the identification, evaluation, or educational placement of Student, or the provision of a free appropriate public education to Student. Page 14, lines 24 to 26 of the complaint references "District", but a fair reading of the paragraph indicates that the complaint is describing the conduct of Sky Mountain, not Lucerne Valley Unified. Student's complaint makes no claims that Lucerne Valley Unified provided Student with special education and related services, or was involved in the decision making process regarding his educational program. Accordingly, Lucerne Valley Unified should be dismissed as a party in this matter.

ORDER

Lucerne Valley Unified's motion to be dismissed as a party is granted. Lucerne Valley Unified is dismissed as a party in the above-entitled matter. The matter will proceed as scheduled against the remaining parties.

IT IS SO ORDERED.

DATE: June 24, 2019

ROMMEL P. CRUZ

Administrative Law Judge

Office of Administrative Hearings

ACCESSIBILITY MODIFIED