

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015060344

ORDER GRANTING SOUTHWEST
SELPA'S MOTION TO DISMISS

On June 05, 2015, Student filed a Request for Due Process Hearing (complaint), naming Torrance Unified School District and Southwest Special Education Local Plan Area as the respondents.

On June 18, 2015, Southwest SELPA filed a Motion to Dismiss, alleging that it was not the public educational agency responsible for providing Student with a free appropriate public education, that it has not provided Student with any educational services, that it is not a necessary party to Student's complaint, and that Student fails to state any claim against Southwest SELPA in his complaint.

OAH received no response to the Motion to Dismiss from either Student or Torrance Unified School District.

APPLICABLE LAW AND DISCUSSION

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), 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.)

Special education due process hearing procedures extend to the parent or guardian, to the student 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.)

In the present matter, Student’s complaint does not contain any allegations that the SELPA was a responsible public agency or provided special education services to Student or was legally responsible to provide Student with a FAPE. Therefore, the SELPA is dismissed as a party to this action.

The Motion to Dismiss Southwest SELPA as a party is granted. The matter will proceed as scheduled against District.

IT IS SO ORDERED.

DATE: June 29, 2015

/s/

TED MANN

Administrative Law Judge

Office of Administrative Hearings