

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

MESA UNION ELEMENTARY SCHOOL DISTRICT AND VENTURA
COUNTY SPECIAL EDUCATION LOCAL PLAN AREA.

OAH CASE NUMBER 2022010385

ORDER GRANTING MOTION TO DISMISS VENTURA
COUNTY SPECIAL EDUCATION LOCAL PLAN AREA AS A
PARTY

FEBRUARY 14, 2022

On January 14, 2022, Parents on behalf of Student filed a due process hearing request with the Office of Administrative Hearing, called OAH, naming Mesa Union Elementary School District and Ventura County Special Education Local Plan Area, called SELPA. On February 7, 2022 SELPA filed a motion to dismiss asserting that it was not proper party in this matter. On February 11, 2022, Student filed opposition to SELPA's motion to dismiss. Mesa Union Elementary School District did not file a response to SELPA's motion.

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.) A special education local plan area is tasked with administering the allocation of funds and local plans submitted under Education Code section 56205. (See Ed. Code, §§ 56195, 56195.1; Cal. Code Regs., tit. 2, § 60010.) Although a special education local plan area may fit the definition of “public agency” set forth in the Individuals with Disabilities Education Act if it is providing special education or related services, to be a proper party for a due process hearing, the special education local plan area must also be involved in making decisions regarding the student at issue.

California law places the primary responsibility for providing special education to eligible children on the local education agency, usually the school district in which the parents of the child reside. (See, e.g., Ed. Code §§ 48200, 56300, 56340 [describing local educational agency responsibilities], 56344, subd. (c).) The law also contemplates that, when a parent disputes the educational services provided to the special needs child, the proper party to the due process hearing request is the local education agency. (See, e.g., Ed. Code § 56502, subd. (d)(2)(B) [local education agency’s response to due process complaint].)

Although special education law does not provide a summary judgment procedure, OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction, including when the party filing the complaint has failed to allege facts that the named entity is a public agency involved in any decision regarding a student

and therefore legally responsible for providing special education and related services. Here, the sole issue is whether SELPA is a proper party, a matter that can be proven without a formal summary judgment procedure.

SELPA's motion argued it should be dismissed as a party because (1) it is not a proper party; (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; (4) is not the authorizer of Golden Valley Charter School; and (5) Student's complaint failed to make specific allegations regarding its involvement with Student's educational program. SELPA's motion is supported by the sworn declaration of SELPA Associate Superintendent, Emily Mostovoy-Luna.

Student argues that Student is entitled to an evidentiary hearing to determine which public agency, Mesa Union Elementary School District or SELPA is the responsible local educational agency in this matter which requires a ruling on the merits. Student attaches a copy of the SELPA's procedural safeguards in its opposition as proof that it is Student's local educational agency responsible in this matter. However, Student failed to provide any authority that the use of SELPA's forms makes it the local educational agency responsible for Student. Further, Student's request for due process hearing alleges generally that Mesa Union Elementary School District and SELPA denied Student a FAPE but failed to state any specific facts in the complaint against SELPA including that SELPA providing or responsible for Student's special education.

Accordingly, SELPA's motion to dismiss is granted.

IT IS SO ORDERED.

Cynthia Fritz

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Administrative Law Judge

Office of Administrative Hearings