

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT, LONG BEACH UNIFIED
SCHOOL DISTRICT, AND LITTLELAKE
SCHOOL DISTRICT.

OAH CASE NO. 2009020237

ORDER GRANTING MOTION TO
ADD PARTY

On February 5, 2009, Student, through his attorney Edwin Egelsee, filed with the Office of Administrative Hearings (OAH) a request for a due process hearing (complaint), naming the above captioned parties. On February 27, 2009, My T. Huynh, attorney for Los Angeles Unified School District (LAUSD), filed a motion to add Alain Leroy Locke Charter High School (Locke) as a party. The motion was served on all parties, including Locke. No response to the motion has been received by OAH.

APPLICABLE LAW

Regarding joinder of a party, OAH considers the requirements of the Code of Civil Procedure. Under that Code, a “necessary” party may be joined upon motion of any party. Section 389, subdivision (a) of the Code of Civil Procedure defines a “necessary” party as follows:

A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party.

A public education agency involved in any decisions regarding a student may be involved in a due process hearing. (Ed. Code, § 56501, subd. (a).) A public education

agency is defined as any public agency, including a charter school, responsible for providing special education or related services. (Ed. Code, §§ 56500, 56028.5.) Children with disabilities who attend public charter schools retain all rights under federal and State special education law. (34 C.F.R. § 300.209(a); Ed. Code, § 56145.)]

DISCUSSION

Student's complaint involves problems that occurred during the time she attended Locke, but Student did not name Locke as a party. It is undisputed that Locke is a public agency that has provided special education services to Student since October 2008. Locke is an independent charter school authorized by LAUSD, and operates under a charter agreement. The Locke Charter provides that, in the event of a due process hearing involving a student who attended Locke, both Locke and LAUSD would be named as parties. In addition, the Charter provides that if a hearing officer, court or settlement awards "prospective special education and related services, compensatory education and/or reimbursement" based on allegations that Locke violated special education laws or regulations, then Locke will bear responsibility for the award. Thus, Locke has an interest in the case such that complete relief could not be accorded to the remaining parties. LAUSD has therefore established that Locke is a necessary party to this proceeding.

ORDER

1. The motion to add Locke as a party is granted. Henceforth, this matter shall be known as *Parent on Behalf of Student v. Los Angeles Unified School District, Long Beach Unified School District, Little Lake School District, and Alain Leroy Locke Charter High School*.
2. The hearing date of April 21, 2009, and the prehearing conference date of April 13, 2009 are confirmed.
3. LAUSD shall provide Locke with copies of all pleadings and documents filed with OAH in this case.

Dated: March 10, 2009

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings