

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009060442

ORDER DENYING LAUSD'S MOTION
TO ADD PARTIES

On June 5, 2009, Student filed a request for a due process hearing naming Los Angeles Unified School District (LAUSD) as the respondent.

On July 17, 2009, LAUSD filed a motion to join the California Department of Education, the Los Angeles County Office of Education, Hacienda La Puente Unified School District, and Puente Hills Special Education Local Plan Area as parties to this action.

On July 24, 2009, Student filed a non-opposition to the motion. The entities which LAUSD seeks to join as parties have filed oppositions to the motion.¹

BACKGROUND

This case is the second case filed by Student before OAH involving his current educational situation. In December 2008, in OAH case number 2009010071, Student filed a case against, among others, the four entities that LAUSD now seeks to join as parties to the current action. On February 9, 2009, OAH issued an order dismissing those parties (and other parties) from that case on the basis that Student had not alleged facts showing that those entities were responsible for Student's special education under California law. The OAH order relied, in part, upon the language of California Education Code section 56041, which determines the school district responsible for educating adults who require special education services between the ages of 18 to 22 years.

On May 27, 2009, the United States District Court for the Central District of California in case number CV 09-1513-VBF (CTx), issued an order in a case filed by Student relating to these same educational entities. The District Court found that Student had failed to exhaust his administrative remedies under the Individuals with Disabilities Education Act

¹ On July 24, 2009, Hacienda La Puente Unified School District filed a request for an extension of time to respond to LAUSD's motion. In light of the ruling on this motion, that request is moot.

prior to filing suit in federal court. In making its order, the District Court relied on the language in Education Code section 56041, stating, in part:

California Education Code Section 56041 sets forth the responsibility for the provision of a FAPE [free appropriate public education] to eligible students between 18 and 22. That Section provides that the district of residence responsible for providing special education and related services to such students is “the last district of residence in effect prior to the pupil’s attaining the age of majority,” “so long as and until the parent or parents relocate to a new district of residence.”²

LAUSD was not named as a party to either the prior OAH case or the District Court case. After the District Court order finding failure to exhaust administrative remedies, Student filed the instant case against LAUSD. Student alleges that LAUSD was the last district of residence of Student before he attained the age of majority and that his parents still reside within the jurisdiction of LAUSD. Student also alleges that LAUSD has failed to provide him with special education services.

APPLICABLE LAW

When considering the joinder of a party, OAH looks to 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.

DISCUSSION

It would serve no purpose to join the four entities as parties to this case. Student previously sought relief against them, and they were dismissed from the prior action on the basis that Student had not alleged facts sufficient to show they were responsible for his

² According to the papers filed with respect to this motion, the District Court decision is on appeal to the Ninth Circuit.

special education. There are no facts or law in Student's current due process request or in LAUSD's motion for joinder to change that prior ruling or to indicate that these four entities are responsible for providing Student with a FAPE.

On the other hand, Student has alleged facts involving LAUSD. If Student is successful in proving this case, complete relief can be accorded to Student.

The disposition of Student's case against LAUSD will not impair or impede the ability of these four entities to protect their interests. Student already filed a case against those four entities and they were dismissed from that case. They would be protected by the doctrines of res judicata and/or collateral estoppel from further action by Student against them.³ In addition, the failure to join these parties will not leave LAUSD subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations. Nothing in the prior OAH case or dismissal order will prevent LAUSD from presenting evidence and arguing that it is not factually or legally responsible for providing Student with a FAPE or from arguing that Student was not denied a FAPE.

Joining these four entities would only delay Student's hearing and invite another motion to dismiss, identical to the one in OAH case number 2009010071. LAUSD has not shown sufficient cause to join them.

ORDER

LAUSD's motion to join parties is denied. This matter will proceed to hearing as scheduled.

Dated: July 29, 2009

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings

³ The four entities raised the defense of res judicata/collateral estoppel in their opposition to LAUSD's motion. During the telephonic prehearing conference on this matter held on July 20, 2009, LAUSD argued that it was not a party to that prior action, so res judicata and collateral estoppel should not apply to its motion for joinder. However, it is not necessary to address that issue, because LAUSD has failed to make a sufficient showing to warrant joinder under Code of Civil Procedure section 389.