

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

LOS ANGELES COUNTY DEPARTMENT  
OF MENTAL HEALTH.

OAH CASE NO. 2010031476

ORDER GRANTING MOTION TO  
ADD PARTY

On March 11, 2010, Parents, on behalf of Student, filed with the Office of Administrative Hearings (OAH) a Request for Mediation and Due Process Hearing (Complaint) that named the Los Angeles County Department of Mental Health (DMH). With the complaint, Parents also filed a Motion for Stay Put, which was granted by OAH on April 5, 2010.

On April 1, 2010, DMH filed its response to Student's complaint, together with a Motion to add Burbank Unified School District (District) as a party to Student's complaint. District has not filed a response to DMH's Motion to add District.

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 school district, responsible for providing special education or related services. (Ed. Code, §§ 56500, 56028.5.) In general, the public education agency with responsibility for a child's education is the school district that serves the area in which the parent resides. (Ed. Code § 48200.)

When a child with a disability is in a residential placement pursuant to an Individualized Education Program involving a school district and a mental health agency, those agencies share responsibility for the placement. (Gov. Code, § 7572.5.) In such a case both agencies must be parties to a single hearing. (Gov. Code, § 7586, subd. (c).)

## DISCUSSION

Education Code sections 56500 and 56501, subdivision (a), establish two requirements for including an entity in a special education due process hearing. First, the entity must be a public agency "providing special education or related services." Second, it must be "involved in any decisions regarding a pupil."

Student is currently placed at the Aspen Ranch, an out-of-state, residential treatment facility in Utah, pursuant to Student's individualized education program dated March 4, 2010. It is undisputed that Student's school of residence is within the District. Because of this, District is the public education agency with responsibility for Student's education, including the provisions of special education and related services. District's staff participated in Student's individualized educational program (IEP) meeting held on March 4, 2010, in order to make an offer of a free and appropriate public education to Student. As a result, District is involved in making decisions concerning Student's special education services. Therefore, District is a necessary party to this matter.

## ORDER

1. The motion to add Burbank Unified School District as a party is granted. Henceforth, this matter shall be known as *Parents, on behalf of student v. Burbank Unified School District and Los Angeles County Department of Mental Health*.
2. All dates shall remain on calendar as previously ordered. The mediation date of April 15, 2010, prehearing conference date of April 28, 2010, and hearing date of May 5, 2010, are confirmed.
3. Within five days of the date of this order, DMH shall provide District with copies of the Scheduling Order and Notice of Due Process Hearing and Mediation dated March 25, 2010, Order Granting Motion for Stay Put dated April 5, 2010, all pleadings and documents that have been filed with OAH in this case.

Dated: April 12, 2010

/s/

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ADENIYI AYOADE  
Administrative Law Judge  
Office of Administrative Hearings