

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ALTA LOMA SCHOOL DISTRICT AND
CALIFORNIA SCHOOL FOR THE DEAF -
RIVERSIDE.

OAH CASE NO. 20010060259

ORDER GRANTING MOTION TO
ADD PARTY

On May 28, 2010, Student filed with the Office of Administrative Hearings (OAH) a request for a due process hearing (complaint) naming the Alta Loma School District (District). On June 15, 2010, the District filed a motion to add the California School for the Deaf - Riverside (CSDR), operated by the California Department of Education (CDE), as a party. The motion was served on Student and CSDR. 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.)

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.” (Ed. Code, § 56500.) Second, the agency must be “involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).)

Student’s complaint involves problems that occurred during the 2008 extended school year, and the 2008-2009 school year when he attended CSDR. Although Student named CSDR in the factual allegations, he did not name CSDR as a party. In support of the motion, the District has submitted an uncontested declaration under penalty of perjury from Amy Foody, a program manager for the West End Special Education Local Plan Area (SELPA), in which she stated that CSDR provided placement and services during the relevant time period and that Student’s proposed remedies may also involve CSDR. An issue exists whether the education and services CSDR provided to Student were properly delivered. CSDR is therefore a necessary public agency to add as a party to this matter.¹

ORDER

1. The motion to add CSDR as a party is granted. Henceforth, this matter shall be known as *Parent on behalf of Student v. Alta Loma School District and California School for the Deaf - Riverside*.
2. All currently scheduled due process and mediation dates remain as calendared.

Dated: June 23, 2010

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

¹ While CSDR is operated by CDE, no factual basis was presented to add CDE itself as a separate party to the action.