

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION.

OAH CASE NO. 2010090418

ORDER DENYING LACOE'S MOTION
FOR JOINDER

On September 08, 2010, Student filed a request for a due process hearing (complaint).¹ On September 23, 2010, the matter was continued. On September 29, 2010, Student and Respondent Los Angeles County Office of Education (LACOE) filed a prehearing conference statement (PHC). On October 4, 2010, a telephonic prehearing conference (PHC) was held and recorded. The parties did not file any motions prior to the PHC and at the PHC the parties confirmed that they did not intend to file any motions. On October 14, 2010, LACOE filed a motion to join the Covina-Valley Unified School District (District), Los Angeles County Department of Mental Health (LACDMH), and the California Department of Education (CDE). LACOE's motion was served on the proposed additional parties.

Student opposed LACOE's motion on October 14, 2010. However, on October 18, 2010, Student and LACOE stipulated to LACOE's joinder and further agreed that Student would have to October 22, 2010, to file an amended pleading. On October 18, 2010, CDE opposed the joinder. At the time of this Order, OAH had not received responses from District or LACDMH.

APPLICABLE LAW

OAH considers the requirements of the Code of Civil Procedure when determining whether joinder is appropriate. 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

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

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.

Further when services from LACDMH are involved, Government Code section 7586, subdivision (c), provides that all hearing requests that involve multiple services that are the responsibility of more than one state department shall give rise to one hearing with all responsible state or local agencies joined as parties.

DISCUSSION

LACOE contends that the additional parties must be joined because LACOE is not responsible for Student's RTC placement, and without the additional parties, Student will not receive the requested benefits. LACOE contends, among other things, that as a result of the recent suspension of AB3632 funds, it is unclear what LACDMH's obligation will be to fund the mental health portion of Student's proposed out-of-state residential treatment placement.

The issue presented in Student's complaint, and which was confirmed by the parties in their respective PHC statements, and at the PHC, is whether LACOE is responsible for funding the educational portion of Student's out-of-state residential placement. The complaint as drafted requires the ALJ to determine LACOE's responsibility only. For this reason, LACOE is the only party necessary to this proceeding. Accordingly, LACOE's motion for joinder is denied.

Student and LACOE have stipulated to the joinder and have agreed that Student can file an amended complaint by October 22, 2010. However, their agreement does not change the current complaint which governs the hearing currently set for October 20, 2010. The hearing shall proceed as scheduled according to the current complaint unless the complaint is withdrawn or Student moves for and is granted permission to amend or the parties have a good cause basis for a continuance.

ORDER

1. LACOE's motion to add District, LACDMH and CDE, as parties is denied without prejudice.

2. The hearing shall proceed as scheduled pursuant to the PHC order.

Dated: October 19, 2010

/s/

EILEEN M. COHN
Administrative Law Judge
Office of Administrative Hearings