

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND LOS ANGELES
COUNTY MENTAL HEALTH.

OAH CASE NO. 2010110616

ORDER GRANTING MOTION TO
ADD PARTY

On November 17, 2010, Student filed a request for a due process hearing (complaint).¹ On December 13, 2010, Los Angeles County Mental Health (Mental Health) filed a response to Student’s complaint. On December 13, 2010, Los Angeles Unified School District (District), filed a motion to add Granada Hills Charter High School (Granada Hills) as a party.

The Office of Administrative Hearings (OAH) did not receive a response to the motion from Student, Mental Health or Granada Hills.

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

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).

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.

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.

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

Student’s complaint alleges that District failed to assess Student for emotional disturbance; that District and Mental Health failed to assess Student’s eligibility for special education and residential care; and, that District and Mental Health denied Student a free and appropriate public education because they failed to assess Student’s academic and social-emotional decline and failed to provide appropriate goals and services. Student attended Granada Hills during the time period alleged in the complaint. Student indicates his individualized education program (IEP) team meetings on March 2007 (where he was determined ineligible for special education services), and on May 21, 2009 (where he was found eligible for special education services), were held at Granada Hills. Student alleges District, Mental Health, and Granada Hills were aware of Student’s academic and social-educational decline and three psychiatric hospitalizations and failed to appropriately address these problems.

The Memorandum of Understanding between Granada Hills and District provides that, in the event a student attending the charter school initiates a special education due process complaint, then both Granada Hills and District will be named as respondents and that Granada Hills will be responsible for any prospective special education and related services, compensatory education and reimbursement awarded by a due process hearing officer, court or settlement based on allegations that the school failed to fulfill its responsibilities under state and federal special education laws and regulations. Granada Hills

is a public education agency involved in decisions regarding Student's eligibility for special education services. As a result, Granada Hills is an appropriate party.

Based upon the foregoing, Granada Hills is a necessary party in this case. District's request to add Granada Hills as a party is granted. Because this results in an amendment to the complaint, Granada Hills, as a new education agency to the case, should be allowed the opportunity to respond to the complaint, participate in a resolution meeting, engage in mediation and prepare for a due process hearing.

ORDER

1. The motion to add Granada Hills as a party is granted. This matter shall be known as *Student v. Los Angeles Unified School District, Los Angeles County Mental Health, and Granada Hills Charter School*.

2. Pursuant to title 20 United States Code section 1415(c)(2)(E)(ii), the applicable timeline for this due process hearing, including the resolution session, recommences as of the date of this order.

3. All previously scheduled hearing and mediation dates are vacated, and a new Scheduling Order and Notice of Due Process Hearing and Mediation will be issued.

Dated: December 23, 2010

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings