

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 AND COMPTON UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011020489

ORDER GRANTING MOTION TO
ADD PARTY

On February 15, 2011, Parent on behalf of Student (Student) filed a request for a due process hearing (complaint),¹ naming Los Angeles County Office of Education (LACOE) as respondent. On February 25, 2011, LACOE filed a motion to join/add Compton Unified School District (District) as a party. Both Student and the District were served by FAX with a copy of LACOE's motion on February 25, 2011. Student filed an objection to the motion on February 28, 2011.

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.

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).

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).)

It is uncontroverted that Student and her parents reside within the boundaries of the Compton Unified School District. It is also uncontroverted that Student currently is placed in an educational setting administered by LACOE.

Student opposes the joinder of the District in order to avoid the dual burden of having to proceed against two respondents instead of only one. Further, Student views LACOE as the primary respondent in her complaint. Student’s theories of liability may be correct in alleging that an agency (LACOE) that accepts the responsibility to provide special education programming is also responsible for its failure to properly provide those programs. It does not necessarily follow that LACOE can override or amend Student’s IEP or placement to correct the alleged deficiencies without the permission or involvement of the Local Educational Agency (LEA), which in this case is the District. In her opposition, Student contends that she has not been placed in a school that meets her needs. She is requesting not only a different placement, but placement outside of the District or LACOE. Ironically, Student acknowledges that it may later become evident that the District should be joined. Given that LACOE has no authority to address Student’s placement remedies, the District, as the LEA, is a necessary party to this complaint. The addition of the District as a party shall occur sooner rather than later.

ORDER

1. LACOE’s motion to add Compton Unified School District as a party is granted. This matter shall be known as Student v. Compton Unified School District and Los Angeles County Department of Education.

2. Pursuant to 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, in order to allow Compton Unified School District to participate in a resolution session.

3. All previously scheduled hearing and mediation dates are vacated. Notices of new mediation and hearing dates shall be forwarded to all parties by OAH.

Dated: March 03, 2011

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings