

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION.

OAH CASE NO. 2011110591

ORDER DENYING MOTION TO ADD
PARTY

On November 7, 2011, Parents on behalf of Student (Student) filed a Due Process Hearing Request¹ (complaint) against the Los Angeles County Office of Education (LACOE). On November 22, 2011, LACOE filed a Response to the complaint and a motion to add the Los Angeles Unified School District (District) as a party. On November 28, 2011, Student filed a joinder to LACOE's motion.

Student's complaint alleges that Student transferred from Fairfax High School, a District school, to the High School for the Performing Arts, a LACOE school, as Fairfax was not an "appropriate setting." The complaint alleges that (1) following an assessment conducted by LACOE, Student was found eligible for special education under the category of Emotional Disturbance (ED) on December 15, 2010; (2) an IEP team meeting was held on December 15, 2010, which resulted in an IEP being formed; and (3) on October 12, 2011, the IEP team met again and adopted a second IEP. The complaint contains three issues: (a) LACOE failed to fulfill its child find obligations under the IDEA; (2) LACOE failed to assess Student in all areas of suspected disability; and (3) LACOE failed to provide Student with a free appropriate public education as the LACOE IEP's had "not provided programs and services designed to assist her [Student's] unique academic ability and significant emotional needs."

Student's complaint requests as remedies reimbursement for various services obtained by Parents and for funding Student to attend the Logan River Academy, a residential treatment center, as compensatory education.

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).

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, 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 District. The complaint contains no factual allegations as to the District nor do any of the claims alleged relate to any actions taken by the District. All allegations involve actions taken by LACOE. Student seeks reimbursement of expenses incurred as a result of actions or non-action by LACOE. Student also seeks compensatory remedy solely based on actions of LACOE. Here, the District was not involved in any decisions involving Student.

LACOE avers that complete relief can not be granted unless the District is added as a party. Since Student seeks reimbursement and compensatory education resulting from actions by LACOE, OAH can provide Student with complete relief without adding the District as a party.

ORDER

LACOE's motion to add the Los Angeles Unified School District as a party is DENIED.

Dated: November 28, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings