

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT, ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009020551

ORDER DENYING MOTION TO ADD
PARTY FOR EXPEDITED DUE
PROCESS HEARING

On February 11, 2009, Parent on behalf of Student, filed with the Office of Administrative Hearings, Special Education Division (OAH), a Request for Expedited Due Process Hearing (Expedited Complaint) that named the Los Angeles Unified School District (District).

On February 19, 2009, OAH issued a Scheduling Order that set the following dates in the case: mediation on February 26, 2009, a prehearing conference on March 9, 2009, and a due process hearing on March 12, 2009. On February 25, 2009, OAH issued a Notice of Rescheduled Mediation that reset the mediation for March 5, 2009.

On February 25, 2009, the District filed with OAH a Request to Join Los Angeles County Department of Mental Health (County Mental Health). OAH has not received a response from either the District or County Mental Health to the request.

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 parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination conducted by the school district, may request and is entitled to receive an expedited due process hearing. (34 C.F.R. §§ 300.530, 300.532 (2006).)

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).)

The District’s Request to Join County Mental Health does not meet this standard. The allegations in the Expedited Complaint that give rise to Student’s right to receive an expedited due process hearing occurred during the first part of the 2008-2009 school year. The allegations in the Expedited Complaint that relate to County Mental Health concern an IEP dated April 27, 2007, and occurred during the 2007-2008 school year. In addition, County Mental Health did not have any responsibility for the change in placement and failure to conduct a manifestation determination that is the subject of Student’s Expedited Complaint.

Accordingly, County Mental Health is not a necessary party and the District’s Request to Join is denied. However, the District shall have the right to renew the request to add County Mental Health as a party with regard to allegations in the Expedited Complaint that are not subject to an expedited due process hearing. (see Gov. Code, § 7586, subd. (c).)

ORDER

The District’s request to join Los Angeles County Department of Mental Health as a party in this expedited proceeding is denied. All previously scheduled hearing and mediation dates remain.

Dated: March 03, 2009

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings