

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. 2009020670

ORDER DENYING MOTION TO JOIN
PARTY

On February 23, 2009, Parent on behalf of Student filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing that named the Los Angeles Unified School District (District). OAH assigned this matter Case No. 2009020670 (LAUSD Complaint). In the LAUSD Complaint there is currently pending a prehearing conference set for April 13, 2009, and a due process hearing set for April 22, 2009.

Also on February 23, 2009, Parent on behalf of Student filed with OAH a Request for Due Process Hearing that named the Pasadena Unified School District. OAH assigned this matter Case No. 2009020620 (PUSD Complaint). On March 24, 2009, Student withdrew the PUSD Complaint without prejudice.

On March 10, 2009, as regards the LAUSD Complaint, Student's attorney sent a letter to OAH stating, in pertinent part, that "(T)his letter is to confirm that the only party Petitioner intended to name in OAH Case No. 2009020670 at the time of filing. . . was the Los Angeles Unified School District." Based upon this letter, on March 12, 2009, OAH issued an Order that dismissed Pasadena Unified School District (PUSD) from Case No. 2009020670.

On March 13, 2009, in Case No. 2009020670, the District filed with OAH a Request To Join Pasadena Unified School District. On March 17, 2009, PUSD filed with OAH an Opposition to this request. On March 18, 2009, Student filed with OAH a Non-Opposition to the request for joinder.

APPLICABLE LAW

There are no provisions in the Individuals with Disabilities Education Act (IDEA), supplementing federal regulations or companion state law that regulate the joinder of parties and causes in special education administrative due process proceedings. Consequently, with requests for joinder of a party, OAH considers the requirements of the Code of Civil Procedure which provide that 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.

As regards this statutory provision, the first clause relating to “complete relief,” focuses not on whether complete relief can be afforded all possible parties to the action, but on whether complete relief can be afforded the parties named in the action. (*Countrywide Home Loans, Inc. v. Superior Court* (1999) 69 Cal.App.4th 785, 793-794 [*Countrywide*].)

DISCUSSION

The LAUSD Complaint is directed at the District and concerns a three year time period that starts in February 2006. During the 2005-2006 school year, Student attended eighth grade in a District school. On February 2, 2006, the District prepared an Individualized Education Plan (IEP) for Student. During the 2006-2007 school year, Student attended ninth grade at a District high school. On February 20, 2007, the District prepared an IEP for Student. During the 2007-2008 school year, Student attended tenth grade at the same high school. On January 22, 2008, the District prepared an IEP for Student. Apparently, for the current school year, Student started eleventh grade at the District high school, but in October 2008, her mother placed Student in a Licensed Children’s Facility (LCI) that is located within the boundaries of the Pasadena Unified School District (PUSD).

The LAUSD Complaint alleges that the District committed procedural and substantive violations of Student’s rights under IDEA and companion state law in the February 2006, February 2007 and January 2008 IEPs for Student. Although the LAUSD Complaint alleges facts informing that Student currently resides at a LCI and attends a public school within the jurisdiction of PUSD, the pleading does not make charges or request relief from PUSD.

The District’s Motion to Join is based upon the underlying contention that Student is a resident of PUSD because she is staying at an LCI that is located within the boundaries of PUSD. (Ed. Code, §§ 48204, subd. (a)(1)(A), 56155.5, subd. (a), 56162.) PUSD counters by contending that her mother placed Student at the LCI, not a court, regional center or public agency, and therefore the District, not PUSD, retains responsibility for the special education of Student. (Ed. Code, § 56162.) Quite aside from this jurisdictional dispute, which OAH cannot decide upon the current factual record in the case, the Motion to Join

does not explain why OAH cannot accord complete relief, within the meaning of Code of Civil Procedure section 389, subdivision (a), without PUSD as a party. The District contends that PUSD is a necessary party because it is presently responsible for Student's special education. However, the LAUSD Complaint makes charges and requests relief for a time period when Student attended District schools. Based upon the content of the LAUSD Complaint, OAH can provide complete relief with Student and the District as parties in this matter. (*Countrywide, supra*, 69 Cal.App.4th at p. 794.) Accordingly, PUSD is not a necessary party, and the Motion to Join is denied.

ORDER

1. The Request by Los Angeles Unified School District to Join Pasadena Unified School District to this matter is denied.
2. All dates previously set in this matter shall remain on calendar.

Dated: March 25, 2009

/s/

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