

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

CENTRAL UNIFIED SCHOOL DISTRICT
and FRESNO COUNTY DEPARTMENT
OF CHILDREN AND FAMILY
SERVICES.

OAH CASE NO. 2009040666

ORDER GRANTING MOTION TO
ADD PARTY

On April 16, 2009, Student filed a request for a due process hearing (complaint) naming the Central Unified School District (District).¹ On June 19, 2009, the District filed a motion to add the Fresno County Department of Children and Family Services (herein referred to as County Mental Health) as a party. The District served its motion on Student and on County Mental Health.

On June 24, 2009, Student filed a non-opposition to the District's motion. Student served his non-opposition on the District and on County Mental Health.

As of the date of this order, County Mental Health has not filed an opposition or otherwise responded to the District's motion to add it as a party.

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

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).

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.

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.

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 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).) According to the District’s contentions in its motion, County Mental Health is providing services to Student through his IEP and therefore meets both of these requirements. Further, there is no opposition to the motion. County Mental Health is therefore a necessary party to this case.

ORDER

1. The motion to add County Mental Health as a party is granted. Henceforth, this matter shall be known as *Parents on behalf of Student v. Central Unified School District and Fresno County Department of Children and Family Services*.

2. The hearing dates of August 17 – August 20, 2009, and the prehearing conference date of August 10, 2009, are confirmed.]

Dated: June 26, 2009

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings