

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT AND ORANGE COUNTY  
DEPARTMENT OF EDUCATION.

OAH CASE NO. 2009060450

ORDER GRANTING CAPISTRANO  
UNIFIED SCHOOL DISTRICT'S  
MOTION TO ADD PARTY

On July 8, 2009, Student filed an amended request for a due process hearing (complaint) against the Capistrano Unified School District (District) and Orange County Department of Education (OCDE).<sup>1</sup> On July 27, 2009, the District filed a motion to add the California Children's Services (CCS) as a party. On July 29, 2009, OCDE submitted its non-opposition to the District's motion to amend. On July 30, 2009, Student submitted her non-opposition to the District's motion. The District served its motion on CCS, which did not file a response.

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

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<sup>1</sup> 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).

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, the agency must be “involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).)

The parties do not dispute that CCS is a public agency authorized to provide occupational therapy and physical therapy services to a student pursuant to a student’s individualized educational program (IEP). In this case, CCS provided Student with services pursuant to her IEP, and an issue exists whether these services were properly delivered. Therefore, CCS is a necessary agency to add as a party to this matter.

## ORDER

1. The motion to add CCS as a party is granted. Henceforth, this matter shall be known as *Student v. Capistrano Unified School District, Orange County Department of Education, and California Children’s Services*.
2. All previously scheduled hearing and mediation dates remain on calendar.

Dated: August 5, 2009

/s/  
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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings