

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

WEST CONTRA COSTA UNIFIED  
SCHOOL DISTRICT AND ALAMEDA  
COUNTY OFFICE OF EDUCATION.

OAH CASE NO. 2009070068

ORDER GRANTING MOTION TO  
ADD PARTY

On June 23, 2009, Student filed a request for a due process hearing (complaint)<sup>1</sup> against West Contra Costa Unified School District (District) and Alameda County Office of Education (County). On July 7, 2009, County filed a motion to add FAME Public Charter School (FAME) as a party.

On July 20, 2009, FAME filed with the Office of Administrative Hearings a notice of representation and stated it did not oppose County's motion. Also, on July 20, 2009, Student filed a response and non-opposition to County's motion.

On July 22, 2009, District filed a response to County's motion, stating that it joined County's motion.

APPLICABLE LAW

In considering a motion to add or join 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

---

<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).

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.

Additionally, children with disabilities who attend public charter schools retain all rights under federal and State special education law. (34 C.F.R. § 300.209(a)(2006); Ed. Code, § 56145.) Education Code section 47646, subdivision (a), provides in pertinent part that a child with disabilities attending a charter school shall receive special education instruction “in the same manner as a child with disabilities who attends another public school of that local educational agency.” It also imposes on the chartering LEA the duty to ensure that “all children with disabilities enrolled in the charter school receive special education ... in a manner that is consistent with their individualized education program” and is in compliance with the IDEA and its regulations. (*Ibid.*)

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).)

## DISCUSSION

It is undisputed that Student attended FAME during the 2008-2009 school year, which is one of the school years at issue in these proceedings. Since FAME provided to Student services on which claims in Student’s complaint are based, and since FAME was involved in the services and decisions regarding Student, FAME is a necessary party to be included in these proceedings. Moreover, FAME does not oppose Student’s motion to add FAME as a party.

## ORDER

1. The motion to add FAME as a party is granted. Henceforth, this matter shall be known as *Parents on Behalf of Student v. West Contra Costa Unified School District, Alameda County Office of Education and FAME Public Charter School*.

2. The hearing dates of August 18, 2009, and the prehearing conference date of August 7, 2009, remain on calendar as previously ordered.

Dated: July 29, 2009

/s/

---

TRINA A. HIRSIG  
Administrative Law Judge  
Office of Administrative Hearings