

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND LOS ANGELES
COUNTY DEPARTMENT OF MENTAL
HEALTH.

OAH CASE NO. 2010090512

ORDER GRANTING MOTION TO
ADD PARTY

On September 13, 2010, Student filed a request for a due process hearing (complaint) naming Los Angeles Unified School District (District) as the respondent.¹ On September 23, 2010, District filed a motion to add Los Angeles County Department of Mental Health (DMH) as a party. Student 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 obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party.

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).

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.)

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

The complaint alleges that Student was denied a FAPE because District did not offer him a placement at a residential treatment center, after DMH had conducted an AB 3632 mental health assessment. The complaint further alleges that the DMH assessor had lacked critical information necessary to make an appropriate recommendation. Under the authorities cited above, DMH was a public agency responsible for providing special education or related services, and was involved in decisions regarding Student. DMH is therefore a proper party.

ORDER

The motion to add DMH as a party is granted. This matter shall be known as Student v. Los Angeles Unified School District and Los Angeles County Department of Mental Health.

Dated: September 29, 2010

/s/

JUNE R LEHRMAN
Administrative Law Judge
Office of Administrative Hearings