

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

GUARDIAN ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION AND COMPTON UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011040785

ORDER GRANTING MOTION TO
ADD PARTY

On April 21, 2011, Student filed a Due Process Hearing Request¹ (complaint) against the Los Angeles County Office of Education (LACOE). On May 5, 2011, LACOE filed a Notice of Insufficiency (NOI) as to Student’s complaint, which the Office of Administrative Hearings (OAH) granted in part and denied in part on May 9, 2011. On May 5, 2011, LACOE filed a motion to add the Compton Unified School District (District) as a party. Neither Student nor the District submitted 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

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).

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

It is uncontroverted that Student and Guardian reside within the boundaries of the District. It is also uncontroverted that Student currently is placed in an educational setting administered by LACOE. Student’s theories of liability may be correct in alleging that an agency (LACOE) that accepts the responsibility to provide special education programming is also responsible for its failure to properly provide those programs. However, LACOE cannot override or amend Student’s IEP or placement to correct the alleged deficiencies without the permission or involvement of the Local Educational Agency (LEA), which in this case is the District. In the complaint, Student contends that he has not been placed in a school that meets her needs, and requests a different placement, outside of LACOE. Given that LACOE has no authority to address Student’s placement remedies, the District, as the LEA, is a necessary party to this complaint. Therefore, the addition of the District as a party shall is appropriate.

ORDER

LACOE’s motion to add Compton Unified School District as a party is granted. This matter shall be known as *Student v. Compton Unified School District and Los Angeles County Department of Education*.

Dated: May 12, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings