

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST COVINA UNIFIED SCHOOL  
DISTRICT AND CALIFORNIA VIRTUAL  
ACADEMY.

OAH CASE NO. 2011090793

ORDER GRANTING MOTION TO  
ADD PARTY

On September 21, 2011, Student filed a request for a due process hearing (complaint) against the West Covina Unified School District (District).<sup>1</sup> On September 26, 2011, the District filed a motion to add the California Virtual Academy at Los Angeles (CAVA) as a party. CAVA joined the District's motion. Student did not submit 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.

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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).

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); Ed. Code, § 56145.)]

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).)

The District seeks to add CAVA as party to this action based on allegations in the complaint that occurred when Student attended CAVA, which is chartered by the District. While the complaint states that Student attended CAVA, Student did not name CAVA as a party. While CAVA is considered a public school of the District, CAVA maintains its own special education department independent of the District. Additionally, CAVA’s memorandum of understanding with the District provides that CAVA is solely responsible for providing special education services for students enrolled in its program. Accordingly, the District’s motion to add CAVA as a party is granted as CAVA is a necessary party to this action.

## ORDER

1. The District’s motion to add CAVA as a party is granted. This matter shall be known as *Student v. West Covina Unified School District and California Virtual Academy*.
2. All previously scheduled hearing and mediation dates are confirmed.

Dated: October 4, 2011

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings