

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 WEST COVINA UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2012060585

ORDER GRANTING JOINT MOTION  
TO ADD CALIFORNIA VIRTUAL  
ACADEMIES AS A PARTY

On June 14, 2012, Student, through his parent, filed a request for a due process hearing (complaint)<sup>1</sup> naming the Los Angeles Unified School District (LAUSD), the West Covina Unified School District (WCUSD), and the East San Gabriel Special Education Local Plan Area (SELPA) as respondents. On June 26, 2012, the Office of Administrative Hearings (OAH) granted the SELPA's motion to be dismissed as a party.

On June 26, 2012, Student, WCUSD, the SELPA, and the California Virtual Academies (CAVA) filed a joint stipulation/ motion to add CAVA as a party to this action. The moving parties contend that CAVA is a necessary party because it is responsible for the provision of special educations to Students enrolled at its schools. Student's complaint indicates that he enrolled at CAVA at the beginning of the 2010-2011 school year and was enrolled there during part of the time he alleges he was denied a free appropriate public education.

LAUSD, which has not yet made an appearance in this matter, is not a party to the motion.

APPLICABLE LAW

A party may amend a complaint only if the hearing officer grants permission, or as otherwise specified.<sup>2</sup> (20 U.S.C. § 1415(c)(2)(E)(i).) The applicable timeline for a due

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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).

<sup>2</sup> The applicable timeline for a due process hearing shall recommence at the time a party files an amended Complaint. (20 U.S.C. § 1415(c)(2)(E)(ii).)

process hearing shall recommence at the time a party files an amended complaint. (20 U.S.C. § 1415(c)(2)(E)(ii).)

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.

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).) In this case, Student alleges, and CAVA itself agrees, that CAVA was responsible for providing special education and related services to Student. CAVA is therefore appropriately joined as a party to this action. There is no prejudice to LAUSD by the joinder.

## ORDER

1. The motion to add the California Virtual Academies as a party is granted. This matter shall be known as Student v. Los Angeles Unified School District, West Covina Unified School District, and California Virtual Academies.

2. Pursuant to section 1415(c)(2)(E)(ii), the applicable timeline for this due process hearing, including the resolution session, recommences as of the date of this order.

3. All previously scheduled hearing and mediation dates are vacated. OAH will issue a revised scheduling order setting new mediation, prehearing conference, and due process hearing dates.

Dated: June 26, 2012

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings