

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT,	OAH Case No. 2014041152
LOS ANGELES UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2014070148 ORDER DENYING MOTION TO JOIN SIMI VALLEY UNIFIED SCHOOL DISTRICT AS A NECESSARY PARTY

On April 28, 2014, Student filed with the Office of Administrative Hearings a request for a due process hearing naming Los Angeles Unified School District (Los Angeles). On June 27, 2014, Los Angeles filed a request for due process hearing naming Student. On July 11, 2014, OAH granted the parties' joint motion to consolidate both cases, and designated the Student filed matter as the lead case. The consolidated matters are scheduled for hearing beginning July 28, 2014, with a prehearing conference on July 18, 2014.

On July 7, 2014, Student filed a motion to join Simi Valley Unified School District (Simi Valley) as a necessary party. Los Angeles has not filed a response. On July 10, 2014, Simi Valley filed a request to extend the time to respond to Student's motion.¹

APPLICABLE LAW

A party may amend a complaint only if the hearing officer grants permission, or as otherwise specified. (20 U.S.C. § 1415(c)(2)(E)(i).) 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).)

¹ Simi Valley's request to extend time is moot in light of this Order denying Student's motion to join.

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.

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

Student alleges that Simi Valley is a necessary party as Student’s current educational rights holder, as appointed by the Juvenile Court on March 25, 2014, resides within the boundaries of Simi Valley. Student contends that Simi Valley, in addition to Los Angeles, may be responsible for Student’s education including funding residential placement. Student’s request to join Simi Valley as a necessary party is, in effect, a request to amend her complaint, which if granted, would restart applicable timelines to allow for a resolution period.

While Student contends in her motion to join that Simi Valley may be responsible for Student’s education and funding a residential placement, the complaint does not contain any factual allegations that Simi Valley had any responsibility to offer or provide special education services to Student, or that it failed to comply with its legal obligations. If Student wishes to add Simi Valley as a party, Student needs to file a motion to amend with a proposed amended complaint that includes specific allegations against Simi Valley. Accordingly, Student’s motion to add Simi Valley as a party is denied as Student’s complaint makes no claims against Simi Valley.

ORDER

1. Student's motion to add Simi Valley as a party is denied.
2. All previously scheduled dates are confirmed.

DATE: July 11, 2014

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings