

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

DESERT SANDS UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009080282

ORDER GRANTING MOTION TO
ADD PARTY

On August 7, 2009, Student filed a request for a due process hearing (complaint) against the Desert Sands Unified School District (District).¹ On August 28, 2009, the District filed a motion to add Riverside County Department of Mental Health (RCDMH) as a party. Neither Student nor RCDMH submitted a response.

APPLICABLE LAW

On a motion for joinder of a party, OAH considers by analogy 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, 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).)

RCDMH is a public agency that has provided Student with special education services, and was involved in the creation of the June 17, 2009 individualized educational program, the appropriateness of which is the central issue in Student’s complaint. Therefore, RCDMH is a necessary party to this matter.

ORDER

1. The District’s motion to add the Riverside County Department of Mental Health as a party is granted. Henceforth, this matter shall be known as *Parents of behalf of Student v. Desert Sands Unified School District and Riverside County Department of Mental Health*.

2. The mediation date of November 4, 2009, the prehearing conference date of November 24, 2009, and hearing dates of December 8, 9, and 10, 2009, are confirmed.

Dated: September 10, 2009

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings