

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009120749

ORDER DENYING MOTION TO ADD
PARTY

On December 17, 2009, Parent, on behalf of Student, filed a request for a due process hearing (complaint) against the Los Angeles Unified School District (District).¹ On March 3, 2010, attorney My Huynh, on behalf of the District, filed a motion to add West Covina Unified School District (WCUSD) as a party. Neither Student nor WCUSD submitted a response.²

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).

² On March 7, 2010, the California Virtual Academy (CAVA) filed an opposition to the District’s motion. According to the District’s motion and CAVA’s opposition, Student is presently attending CAVA. Because the District did not seek to add CAVA as a party, CAVA’s opposition will not be considered.

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).)

Student challenges the adequacy of services the District provided Student during the 2008-2009 school year and the District’s May 12, 2009 individualized education program (IEP). Based on the District’s motion, for the 2009-2010 school year, Student has attended CAVA, an independent charter school authorized by WCUSD. WCUSD is not a necessary party because it was not involved in the development of the May 12, 2009 IEP nor provided any services during the 2008-2009 school year. Additionally, any relief in this matter relates to the 2008-2009 school year to when Student enrolled at CAVA, which is responsible for providing Student with any required special education services as an independent charter school after his enrollment. (Ed. Code, §§ 56500, 56028.5.)

ORDER

The motion to add WCUSD as a party is denied. All previously scheduled hearing and mediation dates remain, and the hearing dates and prehearing conference dates are confirmed.

Dated: March 29, 2010

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings