

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPECIAL EDUCATION DIVISION  
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

Petitioner,

vs.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT,

Respondent.

OAH CASE NO. N2006100766

**ORDER GRANTING MOTION TO JOIN  
LOS FELIZ CHARTER SCHOOL AS A  
PARTY**

On October 24, 2006, the Office of Administrative Hearings (OAH) received a due process hearing complaint (Complaint) from attorney Chike Onyia, on behalf of Petitioner (Student). The Complaint named only Los Angeles Unified School District (District) as a respondent; however, the Complaint described how Student attended Los Feliz Charter School<sup>1</sup> (Los Feliz), and alleged in part that “Los Feliz Charter School is asking Lucas to leave school without securing appropriate placement at another campus.”

On November 7, 2006, OAH received from the District a motion to add Los Feliz as a party. The District alleged that the Complaint “involves disagreements with student’s program and/or services while attending [Los Feliz] which is an independent charter school authorized by the Los Angeles Unified School District.”

In a Notice of Motion dated November 16, 2006, OAH notified Student and Los Feliz that any response to the District’s motion to add Los Feliz as a party was due five business days from the date of the Notice. OAH did not receive any response to the motion from either Student or Los Feliz.

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<sup>1</sup> While Student’s Complaint identifies the charter school as Los Feliz Charter School, the Final Charter Petition provided by the District indicates that the formal name of the school is Los Feliz Charter School through the Arts (LFCSA).

## APPLICABLE LAW

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 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 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 California 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.

## DISCUSSION

The District provided copies of a portion of Los Feliz’s Final Charter Petition, which states in part that “in the even that a parent or guardian of a student attending the LFCSA initiates due process proceedings, both the LFCSA and the District will be named as respondents.” The Final Charter Petitioner further provides in part that Los Feliz:

will be responsible for any prospective special education and related services, compensatory education and/or reimbursement awarded by a due process hearing officer, court or settlement based on an allegation or allegations that [Los Feliz] failed to fulfill its responsibilities under state and federal special education laws and regulations...

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<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).)

Accordingly, Los Feliz is subject to OAH's jurisdiction for this due process hearing. Pursuant to the terms of Los Feliz's Final Charter Petition, and in light of the facts alleged in the Complaint, Los Feliz is a necessary party to this proceeding.

### ORDER

1. The motion to add Los Feliz as a party is granted. Henceforth this matter shall be known as *Student v. Los Angeles Unified School District and Los Feliz Charter School through the Arts*.

2. Pursuant to 20 U.S.C. 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.

Dated: November 30, 2006

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SUZANNE B. BROWN  
Administrative Law Judge  
Special Education Division  
Office of Administrative Hearings