

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013100534
v.	(PRIMARY)
OAKLAND UNIFIED SCHOOL DISTRICT,	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013110827
v.	(SECONDARY)
OAKLAND UNIFIED SCHOOL DISTRICT AND TOBIN WORLD II	ORDER DENYING STUDENT’S MOTION TO ADD PARTY

On October 11, 2013, Parents on behalf of Student filed a request for a due process hearing (complaint),¹ OAH case number 2013100534, naming the Oakland Unified School District (District) as the respondent (First Case).

On November 22, 2013, Parents on behalf of Student filed a complaint, OAH case number 2013110827, naming District and Tobin World II (Second Case).

The two cases were consolidated by order dated December 9, 2013.

On November 25, 2013, Student filed correspondence with OAH requesting that the Antioch Unified School District (Antioch) be added as a party, but did not indicate to which complaint he wanted Antioch added.

APPLICABLE LAW

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

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 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).)

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’s correspondence does not demonstrate that either requirement has been met for purposes of adding Antioch as a party.

Student alleges in the First Case that he attends Tobin World II, a nonpublic school located within the boundaries of Antioch, pursuant to an individualized education program (IEP) with District, and that District committed procedural violations of the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400, et seq. (IDEA)) that denied Student a free appropriate public education (FAPE). Student complains in the Second Case that District and Tobin World II have denied him a FAPE by failing to provide him with safe and timely transportation. Neither the First nor Second Cases allege that Antioch provided Student with special education and services or was involved in any decisions regarding Student. Student has not sought leave to amend either complaint to include allegations against Antioch.

Further, Student bases his request on a document attached to his correspondence that describes a procedure for Antioch to investigate and address complaints of unlawful discrimination under federal or state law. OAH has jurisdiction over claims of denial of FAPE under the IDEA, but not over complaints of discrimination under federal or state statutes. Accordingly, the request to add Antioch as a party to either complaint is denied.

ORDER

1. Student’s request to add Antioch Unified School District as a party is denied.
2. All previously scheduled dates are confirmed.

Dated: December 11, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings