

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PASADENA UNIFIED SCHOOL
DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009020095

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On February 2, 2009, Pasadena Unified School District (District) filed a Due Process Hearing Request (Complaint), naming Student as the respondent.

On or about April 23, 2009, District filed a Motion to Amend the Complaint. As stated in the Motion, and as confirmed in writing and orally by Marcy Tiffany, Attorney at Law, counsel for Student, Student does not oppose the Motion as long as the pending prehearing conference (PHC) date, and due process hearing dates, are vacated. District has offered Student the opportunity to resolve the Amended Complaint by a resolution session, should the Motion be granted.

APPLICABLE LAW

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

DISCUSSION

Amendment of the Complaint is not opposed and is appropriate and timely. Pursuant to Section 1415, subsection (c)(2)(E), all applicable timelines recommence upon filing of the Amended Complaint. However, District did not include a proposed Amended Complaint with its Motion. Consequently, the Motion is granted, and all pending PHC and DPH dates are vacated, subject to the Amended Complaint being filed within five (5) days from the date

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

of this Order. Further, if the Amended Complaint is so filed and served, the parties may agree to hold mediation on any date they prefer prior to the due process hearing. If the Amended Complaint is not so filed and served, then the DPH dates of May 4-7, 2009, remain on calendar, and the PHC date of April 27, 2009 is continued to the first day of hearing.

ORDER

1. The Motion to Amend the Due Process Complaint is granted, subject to the District filing and serving the Amended Complaint within five (5) days of the date of this Order.

2. If the District so files and serves the Amended Complaint, all PHC and DPH dates will be vacated, a new Scheduling Order shall issue, and all applicable timelines shall recommence as of the date of the filing of the Amended Complaint.

3. If the District does not so file and serve the Amended Complaint, the DPH dates of May 4-7, 2009, remain on calendar, and the PHC currently set to be held on April 27, 2009, shall be continued to the first day of hearing.

IT IS SO ORDERED.

Dated: April 24, 2009

/s/

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings