

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

SANTA BARBARA SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009040829

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On April 17, 2009, Santa Barbara School District (District) filed a Due Process Hearing Request (Complaint), naming Student as the respondent.

On July 15, 2009, District filed a Motion to Amend the Complaint (Motion) thereby seeking to clarify the sole issue of the Complaint and to add a new issue to the Complaint. On July 16, 2009, Student filed an Opposition to District's Motion, contending that due to the shortness of time between District's Motion and the due process hearing (DPH) presently scheduled to begin August 31, 2009, Student would have inadequate time to prepare for the DPH and would, therefore, be prejudiced.

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).)<sup>1</sup> The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii)).

DISCUSSION

Amendment of the complaint is appropriate and timely. Pursuant to Section 1415, subsection (c)(2)(E), all applicable timelines recommence upon filing of the amended complaint. Therefore, Student's concern regarding the nearness of hearing will be mooted by reason of the new timeline. The amended complaint shall be deemed filed on the date of this order and shall hereafter be referred to as the First Amended Complaint.

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<sup>1</sup> All statutory citations are to Title 20 United States Code unless otherwise indicated.

ORDER

1. The motion to amend the due process complaint is granted.
2. All existing dates are vacated.
3. The amended complaint is deemed filed on the date of this order.
3. All applicable timelines shall recommence as of the date of this order and a new scheduling order will be issued.

Dated: July 27, 2009

/s/

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STEVEN CHARLES SMITH  
Administrative Law Judge  
Office of Administrative Hearings