

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010060427

ORDER DENYING MOTION TO  
AMEND COMPLAINT

On June 10, 2010, Student filed a Due Process Hearing Request (complaint), naming Garden Grove USD (GGUSD), Anaheim Union High School District (AUHSD) and Orange County Health Care Agency (OCHCA) as the respondents. The matter was originally set for a hearing to occur on August 4, 2010.

By Order dated July 7, 2010, OAH granted OCHCA's motion to be dismissed as a party on the grounds that the only facts alleged against OCHA involved an assessment report from March 2007, more than two years prior to the filing date. Student's case against OCHCA was therefore barred by the two-year statute of limitations.

On July 9, 2010, the remaining parties stipulated to continue the hearing until September 7 and 8, 2010. OAH granted the requested continuance.

At a mediation on July 22, 2010, the parties agreed to, and OAH granted, a further continuance to the currently scheduled dates of December 13-17, 2010.

On November 23, 2010, Petitioner dismissed AUHSD as a respondent, leaving GGUSD as the only remaining respondent.

At the Pre-hearing Conference (PHC) held on December 8, 2010, OAH ordered the hearing days December 13 and 14 to be dark to permit filing, response and ruling on Student's motion to amend the complaint to add the California Department of Education (CDE) and OCHCA as indispensable parties. In the event Student's motion was not granted with new dates set, then the continued PHC was ordered to be held at the District offices on December 15, 2010 at 9:00 a.m. and the Due Process Hearing to commence immediately thereafter at 10:00 a.m.

Student's motion to amend is now denied. Therefore, as ruled at the December 8, 2010, PHC, the continued PHC will be held at the District offices on December 15, 2010 at 9:00 a.m. and the Due Process Hearing will commence immediately thereafter at 10:00 a.m.

As previously ordered, the trial judge shall define the issues and proposed resolutions at the continued PHC.

### APPLICABLE LAW

Prior to October 9, 2006, the statute of limitations for due process complaints in California was generally three years prior to the date of filing the request for due process. The statute of limitations in California was amended, effective October 9, 2006, and is now two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).)

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to “the public agency involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).) A “public agency” is defined as “a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.)

OAH is not vested with jurisdiction over regional centers, which are subject to hearing procedures pursuant to Welfare and Institutions Code section 4700 et seq.

### DISCUSSION

Student’s motion to amend seeks to add three additional parties, OHCHA, CDE and the Regional Center of Orange County (RCOC).

As to OHCHA, the proposed amended complaint’s allegations involve an assessment report from March 2007, as did the allegations in the original complaint. As previously ruled, the events were more than two years prior to the filing date. Student’s case against OCHA is therefore barred by the two-year statute of limitations. Student’s motion to amend to add OHCHA is therefore denied.

As to RCOC, OAH is not vested with jurisdiction over regional centers, which are subject to hearing procedures pursuant to Welfare and Institutions Code section 4700 et seq. Student’s motion to amend to add RCOC is therefore denied.

As to CDE, the proposed amended complaint alleges that CDE has “failed to assure appropriate procedures are in place to assure the provision of FAPE and has failed to assure appropriate assessments are available and conducted.” It further alleges that CDE “denied FAPE when it failed to assure appropriate procedures to access educationally required mental health services and/or permitted the limiting of mental health services to cognitive therapy.” Since Student does not allege that CDE provided special education or related services to Student or was involved in any decisions regarding him, CDE is not a proper party to this matter. Student’s motion to amend to add CDE is therefore denied.

ORDER

1. Student's Motion to Amend the Complaint is denied.
2. The PHC and hearing shall proceed as scheduled as between Student and GGUSD only.

IT IS SO ORDERED.

Dated: December 14, 2010

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings