

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

COMPTON UNIFIED SCHOOL DISTRICT
& LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011020212

ORDER GRANTING MOTION TO
AMEND COMPLAINT WITHOUT
ADDRESSING RELATION BACK
AND STATUTE OF LIMITATIONS &
DENYING REQUEST FOR
CONTINUANCE AS MOOT

On February 7, 2011, Student filed a Due Process Hearing Request (complaint), naming Compton Unified School District (CUSD) and Los Angeles Unified School District (LAUSD) as respondents. On March 25, 2011, Student filed a Motion to Amend and First Amended Complaint naming the same parties as respondents. Student's First Amended Complaint adds allegations against LAUSD that exceed the two-year statute of limitations under the IDEA. Student also asks that the First Amended Complaint relate back to the filing date of the original complaint. Student's contentions about the statute of limitations and relation back are premised on Student's position about when Student received certain documents from LAUSD. Neither District filed opposition to the Motion to Amend. On March 29, 2011, the parties filed a stipulated request to continue the hearing on the ground that Student's attorney had a conflict with the existing prehearing conference and was seeking leave to amend the complaint.

Amendment

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

The motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

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

Although Student has requested a ruling on relation back and the statute of limitations as part of Student's Motion to Amend, the ALJ declines to do so. Just because leave to amend is granted does not automatically result in relation back to the original filing date, or result in an expansion of the statute of limitations. Instead, a determination of relation back and whether an exception to the statute of limitations actually applies will require factual determinations that may hinge on the credibility of witnesses or other evidence. Such a determination should be made as part of the hearing process or at a minimum after respondents file responses to the First Amended Complaint. Accordingly, nothing in this order should be construed as an order finding that the amended complaint either relates back to the original filing date, or that Student has proved an exception to the statute of limitations. Such issues are left to the discretion of the ALJ assigned for hearing.

Request for Continuance

The parties filed a joint request for a continuance on March 29, 2011. As discussed above, the granting of the Motion to Amend requires that all dates be reset and that the districts be given an opportunity to resolve any new issues through a resolution session. Accordingly, the Motion for Continuance is denied as moot because a new scheduling order will be issued.

ORDER

1. Student's Motion to Amend is granted without determining whether the First Amended Complaint relates back to the filing date of the original complaint and without determining whether Student has demonstrated an exception to the two-year statute of limitations.
2. Student's First Amended Complaint is deemed filed as of the date of this Order and OAH shall issue a new scheduling order.
3. The parties' stipulated Request for a Continuance is denied as moot in light of the above.
4. Nothing in this Order shall be construed as a determination of relation back or an exception to the statute of limitations and such issues should be decided at hearing.

Dated: March 29, 2011

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge (acting)
Office of Administrative Hearings