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. 2011080592 ORDER DENYING DISTRICT'S MOTION TO DISMISS AND GRANTING STUDENT'S MOTION TO FILE AMENDED COMPLAINT

On August 15, 2011, Parent on behalf of Student (Student) filed a Request for Due Process Hearing (complaint), naming the Garden Grove Unified School District (District) as the respondent. The complaint contained three issues. On August 31, 2011, Parent withdrew the third issue. The two remaining issues are that (1) the District deprived Student of a free appropriate public education (FAPE) by failing to give prior written notice when it proposed changes to Student's Individualized Education program (IEP), and (2) that the District interfered with Parent's right to participate in the decision making process of the IEP. Student's proposed resolution for the two issues is that Student continues to receive services from Autism Partnership, a nonpublic agency (NPA).

On October 25, 2011, the District filed a Motion to Dismiss, alleging that the Office of Administrative Hearings (OAH) lacks jurisdiction to order Student's proposed remedy in that OAH can not force a school district to contract with a particular nonpublic agency, Autism Partnership. The District attaches to its motion as an exhibit a letter from Autism Partnership to Student's parents terminating its contract because of difficulties working with parents. The District contends that OAH does not have jurisdiction to hear contract disputes citing *Newport-Mesa Unified School District v. Student* (OAH Case Number N2007030060), which was affirmed in *J.R. v. Newport-Mesa Unified School District* (C.D. Cal. 2007, Case Number SACV 07-1243 CNJ (ANx))..

On October 31, 2011, Student filed a pleading entitled "Parents modifying the resolution and request for motion to consolidate issues and continuance of Due Process Hearing."[1] Student also separately filed an amended complaint. In his amended complaint, Student re-alleges issues one and two; but he includes new proposed resolutions. The new proposed resolutions are for OAH to award "compensatory education based on Student's

[1] In the pleading, Student asserts that he has filed a new due process request.

needs." Student's motion for leave to file an amended complaint is GRANTED. OAH will issue a new scheduling order.

Because Student has filed an amended complaint, the District's motion to dismiss is moot. Therefore, the District's motion to dismiss is DENIED.

The District has five days from the date of this order to file opposition to Student's motion to consolidate and for a continuance.

IT IS SO ORDERED.

Dated: October 31, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings