

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DENAIR UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012030848

ORDER REQUESTING ADDITIONAL
INFORMATION

On March 21, 2012, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings (OAH), naming Turlock Unified School District (Turlock) and Denair Unified School District (District). On April 19, 2012, the District filed a Motion to Dismiss the complaint on several grounds, one of which was that its responsibility to provide Student with an education ended in January 2010, when Parents unilaterally removed him from the District to place him at a private school in Utah, and the complaint was filed more than two years after the running of the two year statute of limitations governing such a complaint.¹ Other grounds included an assertion that seems to attack Student’s requested remedy for reimbursement for the unilateral placement, and an argument that “stay put” should not apply. On April 24, 2012, Turlock filed opposition to District’s motion to dismiss.

On April 24, 2012, Student filed a pleading entitled Response to [the District]’s Motion to Dismiss . . . , and Motion to Amend Complaint.” (response/motion). He asks to add allegations to his original complaint, supported by attached declarations, that he believes establish grounds for waiving the two year statute of limitations. On April 27, 2012, the District filed an opposition to the motion to amend disputing the information in Student’s declarations, and attaching its own declarations and exhibits. On May 1, 2012, Student sent a letter to OAH that dismissed Turlock as a party with prejudice because his case against Turlock has been settled.

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

¹ Education Code section 56505, subdivision (l) establishes a two-year statute of limitations for the filing of a complaint concerning the provision of special education and services to a child with a disability, and also states two grounds (exceptions) allowing the statute to be waived.

permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)² The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Student appears to be asking that the allegations in his response/motion be incorporated into his original complaint. However, OAH requires parties who seek to file an amended complaint to provide it with a fully integrated new complaint. The prehearing conference (PHC) in this matter is currently set for May 7, 2012, at 1:30 p.m., and the due process hearing is set to begin on May 15, 2012. Student is granted leave to present OAH and the District with a fully integrated complaint no later than 10:00 a.m. on May 7, 2012. At the time set for the PHC, the ALJ conducting the PHC shall rule upon both Student's motion to amend, and the District's motion to dismiss. All dates shall remain as calendared.

IT IS SO ORDERED.

Dated: May 3, 2012

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

² All statutory citations are to Title 20 United States Code unless otherwise indicated.