

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRUITVALE SCHOOL DISTRICT,
FRUITVALE SCHOOL DISTRICT BOARD
MEMBERS, BOARD MEMBERS OF
KERN COUNTY SUPERINTENDENT OF
SCHOOLS, VALLEY OAKS CHARTER
SCHOOL, OUR LADY OF GUADALUPE
SCHOOL.

OAH CASE NO. 2012030900

ORDER GRANTING REQUEST FOR
EXTENSION OF TIME TO FILE
THIRD AMENDED COMPLAINT

On April 25, 2012, Parent on behalf of Student (Student) filed a request to amend his original complaint filed March 23, 2012. This request to amend was also deemed the first amended complaint, filed April 25, 2012. On April 27, 2012, Student filed a second request to amend that was also deemed a second amended complaint. The request was granted and the second amended complaint was deemed filed on April 27, 2012. On May 15, 2012, Administrative Law Judge (ALJ) Marian Tully granted the Notice of Insufficiency filed by Fruitvale School District (District), Kern County Superintendent of Schools (Superintendent) and Kern County Consortium Special Education Local Plan Area (SELPA) as to Student's second amended complaint.¹ The May 15, 2012 order permitted Student to file a third amended complaint no later than 14 days from the date of the order. Student's third amended complaint was due on or before May 29, 2012.²

On May 23, 2012, Student filed a request for extension of time to file a third amended complaint due to Parent's unforeseen medical needs. Parent requests an extension until her

¹ Superintendent and SELPA's prior motions to be dismissed as parties were granted on April 24, 2012.

² Parent filed a request for due process hearing and amended complaints against respondents on behalf of Student's brother, case number 2012030921. Parent on behalf of Student and Student's brother previously requested mediator assistance with amending complaints on May 10, 2012. The Office of Administrative Hearings assigned a mediator to assist Parent on May 10, 2012.

“medical needs are stabilized.” The Office of Administrative Hearings (OAH) has not received a response from any of the identified respondents.³

In support of his request for extension of time, Student attaches page one of five from an Emergency Department Discharge Instructions report for Parent, from San Joaquin Community Hospital. While the instruction sheet does not indicate the date of treatment, there is a date and time stamp at the bottom of the page noting a date of May 22, 2012. The instruction sheet indicates that Parent has a break (fracture) of the elbow which will take 4-12 weeks to heal, depending on the severity of the break, and directs Parent to elevate her arm at least during the first 48 hours and to apply ice. The instruction sheet continues for apparently four additional pages which were not attached to Student’s request.

It is unclear how long of an extension of time Student is requesting or how long it will take Parent’s medical needs to stabilize. Student has demonstrated good cause for an extension of time for two weeks from the date of this order to file a third amended complaint. If Parent’s medical needs prohibit her from filing the third amended complaint within the two week extension, Student may file a further request for extension with supporting documentation as to how Parent’s medical condition prevents her from timely filing the complaint and how much time is needed for Parent’s medical needs to stabilize.

ORDER

1. Student’s request for extension of time to file a third amended complaint is granted. Student shall file his third amended complaint not later than 14 days from the date of this order.⁴
2. Student is ordered to serve all named respondents with a copy of the third amended complaint and file a proof of service with OAH.

³ On April 27, 2012, OAH ordered Student to promptly serve a copy of his second amended complaint on Valley Oaks Charter School, Our Lady of Guadalupe, the Fruitvale School District Board Members and Superintendent Board Members and file a proof of service with OAH. No proof of service has been filed to date.

⁴ The filing of a third amended complaint will restart the applicable timelines for a due process hearing.

3. If Student fails to timely file a third amended complaint, the second amended complaint will be dismissed.

IT IS SO ORDERED.

Dated: June 5, 2012

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings