

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRUITVALE SCHOOL DISTRICT, KERN
COUNTY SUPERINTENDENT OF
SCHOOLS, AND KERN COUNTY
CONSORTIUM SELPA.

OAH CASE NO. 2012030921

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

On April 25, 2012, Parent on behalf of Student (Student) filed a request to amend his complaint. This request was granted and Student filed his first amended complaint on April 27, 2012. On May 11, 2012, Administrative Law Judge (ALJ) Peter Paul Castillo granted the Notice of Insufficiency filed by Fruitvale School District (District), Kern County Superintendent of Schools (Superintendent) and Kern County Consortium SELPA (SELPA), as to Student's first amended complaint. The May 11, 2012 order permitted Student to file a second amended complaint no later than 14 days from the date of the order. Student's second amended complaint was due on or before May 25, 2012.¹

On May 23, 2012, Student filed a request for extension of time to file a second amended complaint due to Parent's unforeseen medical needs. Parent requests an extension until "her medical needs are stabilized." The Office of Administrative Hearings (OAH) has not received a response from District, Superintendent, or SELPA.

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

¹ Parent filed a request for due process hearing and amended complaints against respondents on behalf of Student's brother, case number 2012030900. 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.

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 that Student is requesting. Student has demonstrated good cause for an extension of time for two weeks from the date of this order to file a second amended complaint. If Parent's medical needs prohibit her from filing the second 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 additional time is required for Parent's medical condition to stabilize.

ORDER

1. Student's request for extension of time to file a second amended complaint is granted. Student shall file his second amended complaint not later than 14 days from the date of this order.²
2. Student is ordered to serve all named respondents with a copy of the second amended complaint and file the proof of service with OAH.
3. If Student fails to timely file a second amended complaint, the amended complaint will be dismissed.

IT IS SO ORDERED.

Dated: June 5, 2012

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

² The filing of a second amended complaint will restart the applicable timelines for a due process hearing.