

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2012120740

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On December 19, 2012, Student filed a Due Process Hearing Request (complaint), naming Acalanes Union High School District (District). On January 7, 2013, District filed a Notice of Insufficiency (NOI). Student responded to the NOI on January 9, 2013. On January 10, 2013, The Office of Administrative Hearings (OAH) issued an order dismissing issues one, two, four and five and finding issues six, seven and eight to be sufficiently pled. The order permitted Student to amend the complaint within 14 days. Student did not file an amended complaint within the 14 days permitted by the January 10, 2013 order.

On February 6, 2013, Student filed a motion to amend complaint and an amended complaint (amended complaint). No opposition was received from District.

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).) 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's motion to amend makes no mention of the timelines for amendment imposed by OAH in the Order dated January 10, 2013. Student relies upon 20 U.S.C. 1415(c)(2)(E)(i) when moving to amend her complaint. The hearing is currently scheduled to begin on April 22, 2013. Since no opposition was filed, and the motion to amend is timely, the motion 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.

IT IS SO ORDERED.

Dated: February 14, 2013

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings