

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL
DISTRICT, SAN DIEGO COUNTY
OFFICE OF EDUCATION AND
LITERACY FIRST CHARTER SCHOOLS.

OAH CASE NO. 2013030027

ORDER GRANTING MOTION TO
AMEND COMPLAINT, UPON
STIPULATION OF PARTIES, ADDING
LITERACY FIRST CHARTER
SCHOOLS AS A RESPONDENT

On February 28, 2013, Student filed a request for a due process hearing (complaint)¹ with the Office of Administrative Hearings (OAH), naming Grossmont Union High School District (District) and San Diego County Office of Education (SDCOE) as respondents. On March 5, 2013, OAH issued a scheduling Order, setting mediation for April 4, 2013, a prehearing conference (PHC) for April 15, 2013, and a due process hearing for April 25, 2013.

On March 15, 2013, the petitioner Student and both respondents submitted a Joint Stipulation to Join Literacy First Charter Schools (Charter) as a Co-Respondent. The stipulation is signed by counsel for all three parties and is supported by declaration and more than 70 pages of exhibits. The stipulation seeks to include the Charter as an additional respondent, arguing that the evidence establishes it is an appropriate party.

APPLICABLE LAW

A party may amend a complaint only if the hearing officer grants permission or the other parties consent in writing to the amendment and have an opportunity to have the petitioner participate in a resolution session. (20 U.S.C. § 1415(c)(2)(E)(i).) The applicable timeline for a due process hearing shall recommence at the time a party files an amended complaint. (20 U.S.C. § 1415(c)(2)(E)(ii).)

Education Code sections 56500 and 56501, subdivision (a), establish two requirements for including an entity in a special education due process hearing. First, the entity must be a public agency “providing special education or related services.” (Ed. Code,

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

§ 56500.) Second, it must be “involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).)

Children with disabilities who attend public charter schools retain all rights under federal and State special education law. (34 C.F.R. § 300.209(a); Ed. Code, § 56145.)]

DISCUSSION

Since the parties have all agreed that the Charter should be named as an additional respondent, there is no need to include evidence and argument regarding the Charter’s legal obligations. The complaint referred to the Charter and its relationship to the Student and other respondents, but failed to name it as a respondent. That oversight is corrected by adding the Charter at this time by ordering that the complaint is hereby amended to include Charter as a respondent. As a result of the amendment, however, all hearing timelines must be reset, in order to give Charter the opportunity to resolve the issues alleged in the complaint at a resolution session.

ORDER

1. The parties’ stipulation to join a party is deemed a motion to add the Charter as a respondent to the complaint by way of amendment.
2. The respondents have stipulated to the amendment, the motion is granted, and the complaint is hereby amended to include Literacy First Charter Schools as a respondent.
3. This matter shall be known as *Student vs. Grossmont Union High School District, San Diego County Office of Education, and Literacy First Charter Schools*.
4. Student shall immediately serve the newly added respondent Literacy First Charter Schools with the complaint and this order, and thereafter file a proof of service with OAH.
5. Pursuant to section 1415(c)(2)(E)(ii), the applicable timeline for this due process hearing, including the resolution session, recommences as of the date of this order.
6. All previously scheduled hearing and mediation dates are vacated. OAH shall issue a new scheduling order.

Dated: March 18, 2013

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings

