

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ROCKLIN UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013060987

ORDER DENYING MOTION TO
DISMISS AS MOOT

On June 25, 2013, attorney for Student, Christian M. Knox, filed with the Office of Administrative Hearings (OAH), on behalf of Student, a Request for Due Process Hearing (complaint) against the Rocklin Unified School District (District). In the complaint, Student alleges four issues based on the contention that District denied him a free appropriate public education (FAPE) during the 2012-2013 and 2013-2014 school years, due to certain substantive and procedural violations of the Individuals with Disabilities Education Act (IDEA) by District.

On July 11, 2013, attorney for District, Jessi Gasbarro, filed a motion to dismiss two of four issues contained in Student's complaint, and to strike one sub-issue (Issue 1(d)) as insufficient (motion). District argues that Issues 2 and 2 in Student's complaint are barred by the terms of a final settlement agreement entered into by the parties on May 14, 2012. Thus, District prays that OAH dismiss those two issues and strike sub-issue 1(d) due to insufficiency.

On July 15, 2013, before OAH could rule on District's motion, Student submitted to OAH a motion to amend his complaint, and a proposed amended complaint. According to Student's motion to amend, the amended complaint is filed in response to District's motion to dismiss and/or strike, and is intended to cure "any alleged deficiencies" in the original complaint.¹

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education," and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right

¹ OAH will issue a separate order regarding Student's motion to amend.

to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

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 days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

DISCUSSION

In its motion to dismiss, District contends that certain issues presented in Student original complaint dated June 25, 2013 are either insufficiently pled or barred by parties’ prior settlement agreement and as such the offending issues should be dismissed. District’s current motion to dismiss and/or strike is moot due to the filing of an amended complaint by Student on July 15, 2013. With the filing of the amended complaint, the June 25, 2013 original complaint is superseded, and that complaint is no longer active when OAH grants Student’s motion to amend the original complaint. Further, the issues raised in the original complaint have also been superseded, and the issues are replaced by those allegation and issues contained in the amended complaint dated July 15, 2013. Accordingly, District’s motion to dismiss and/or strike Issues One and Two contained in Student’s original complaint dated June 25, 2013 must be denied as moot.

ORDER

1. District’s motion to dismiss Issues 1 and 2 in Student’s complaint dated June 25, 2013 is denied as moot.
2. District’s motion to strike Issue 1(d) in Student’s complaint dated June 25, 2013 due to insufficiency is denied as moot.

IT IS SO ORDERED.

Dated: July 19, 2013

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings