

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL
DISTRICT AND CONTRA COSTA
COUNTY OFFICE OF EDUCATION.

OAH CASE NO. 2013080104

ORDER GRANTING MOTION TO
AMEND COMPLAINT

BACKGROUND INFORMATION

On July 31, 2013, Parents on behalf of Student (herein collectively “Student”) filed a Due Process Hearing Request (complaint), naming the Acalanes Union High School District (District). On August 15, 2013, the Office of Administrative Hearings (OAH) granted the parties’ joint request for a continuance. On September 23, 2013, after discussion with the parties, OAH granted a second continuance.

On September 26, 2013, Student filed a motion to amend his complaint. Student wishes to amend his complaint by adding the Contra Costa County Office of Education (CCCOE) as an additional party respondent. In his motion, Student states that he has learned since filing his original complaint that CCCOE managed and operated the placement offered to Student by the District. Student requests that the date presently set for mediation in his original complaint be retained. Student does not state whether he has contacted the District and CCCOE regarding the mediation or hearing dates in this matter and does not indicate if either respondent supports or is opposed to his request to retain presently scheduled dates.

Student served his motion to amend on the District and on CCCOE. Neither of these entities has filed an opposition or other response to Student’s motion.

DISCUSSION

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).)

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

Here, Student asserts in his motion to amend that CCCOE is an appropriate party due to his allegations that CCCOE is responsible for managing and operating the facility where Student was offered placement. Neither CCCOE nor the District has contested this assertion. Therefore, Student’s motion to add CCCOE is appropriate as CCCOE may be a responsible public agency responsible for providing Student with special education.

Additionally, the motion to amend is timely and is therefore also granted on that basis. The amended complaint shall be deemed filed on the date of this order.

Although Student has requested that the present mediation date be retained, Student provides no indication that either respondent is in agreement. Therefore, pursuant to normal OAH procedures, all applicable timelines in this case shall be reset as of the date of this Order.

Student also requests that CCCOE representatives attend the next mediation session in this case. CCCOE will be served with notice of the scheduled mediation and will be invited and encouraged to attend. However, since mediation in special education due process proceedings is voluntary, OAH cannot compel CCCOE’s attendance.

ORDER

1. Student’s motion to amend his complaint to add CCCOE as a party is granted.
2. This matter shall be known as *Parent on Behalf of Student v. Acalanes Union High School District and Contra Costa County Office of Education*.
3. Pursuant to section 1415(c)(2)(E)(ii), all previously scheduled hearing dates are vacated and the applicable timeline for this due process hearing, including the resolution session, recommences as of the date of this order.
4. OAH will issue a new scheduling order with the new dates.

Dated: October 2, 2013

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings