

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013090223

ORDER GRANTING MOTION TO
AMEND COMPLAINT AND
DENYING DISTRICT'S MOTION TO
DISMISS AS MOOT

On September 4, 2013, Student filed a Due Process Hearing Request] (complaint), naming Los Angeles Unified School District (District). On December 3, 2013, Student filed a Motion to Amend the Due Process Hearing Request, as to Issue 1 (amended complaint).

Student filed his Motion to Amend following the December 2, 2013 prehearing conference (PHC), during which Administrative Law Judge (ALJ) Clifford H. Woosley heard oral argument from attorneys for both parties on District's Motion to Dismiss Issue One, because it was barred by the applicable two-year limitations. In addition to oral argument, ALJ Woosley also considered the District's written motion, Student's written opposition, and District's response to Student's opposition. Following oral argument during the PHC, Student's counsel requested, if District's motion to dismiss were granted, that Student be allowed to amend the complaint. ALJ Woosley indicated that the OAH had jurisdiction to consider Student's request for leave to amend up to the close of business, December 3, 2013; otherwise, OAH would not be empowered to grant an amendment request because it would be within five (5) days of the scheduled hearing of December 9, 2013, unless District consented to the amendment. District did not consent to amendment at the time of the PHC.

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).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The proposed amendment to Issue One of the complaint adds factual allegations, which were referred to in the parties' papers and oral argument on the District's motion to

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

dismiss, which Student argues would support application of statutory exceptions to the applicable two-year limitation. The motion to amend is granted.

Since the amendment to the complaint is deemed filed this date, the District's motion to dismiss Issue One of the complaint is denied as moot. Further, since all dates are vacated and reset by amendment, the Order Following Prehearing Conference shall not issue.

ORDER

1. The motion to amend is timely and is granted.
2. The complaint as amended shall be deemed filed as of the date of this order.
3. District's motion to dismiss Issue One of the complaint is denied as moot.
4. The scheduled due process hearing of December 9, 2013, is vacated.
5. All applicable timelines shall be reset as of the date of this order.
6. OAH will issue a scheduling order with the new dates.

Dated: December 03, 2013

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings