

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FALLBROOK UNION HIGH SCHOOL  
DISTRICT.

OAH CASE NO. 2013100130

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On September 30, 2013, Parent on behalf of Student (Student) filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings (OAH), naming the Fallbrook Union High School District (Fallbrook). On March 28, 2014, Student, through counsel, filed a motion to amend complaint and amended complaint. Fallbrook filed an opposition to Student's motion to amend complaint on April 2, 2014.

APPLICABLE LAW

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).)

DISCUSSION

Student's original complaint alleged that Fallbrook denied him a free appropriate public education (FAPE) due to the following: (1) failing to fulfill its obligations pursuant to Child Find by failing to find Student eligible as a pupil with a disability; (2) this failure impeded his parents ability to participate in the development of an individualized educational program (IEP); and, (3) Student's IEP for the 2013-2014 school year failed to offer appropriate goals, services and accommodations. Student seeks to amend his complaint to issues which allege that Fallbrook denied him a FAPE by (1) failing to find Student as a pupil with a disability for the entirety of the 2011-2012 school year; (2) failing to conduct mental health assessments during the 2011-2012 school year; (3) failing to consider information from a variety of sources during a June 11, 2012 IEP team meeting; (4) failing to

include accurate present levels of performance, an appropriate transition plan, or provide a clear offer of FAPE, in Student's August 30, 2013 IEP; (5) failing to provide requested school records; and, (6) failing to appropriately respond to his June 2013 request for an independent educational evaluation.

Fallbrook primarily opposes Student's motion to amend on the basis that Student had the necessary information to allege the new issues at the time he filed his original complaint. However, Fallbrook failed to provide a legal basis for why a party is estopped from amending a complaint, if timely, on this basis.

Student's motion to amend was submitted six days prior to the due process hearing and is therefore timely and is granted.

#### ORDER

1. Student's motion to amend is granted.
2. 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.
3. The resetting of hearing dates shall not vacate the telephonic hearing on OAH's Order to Show Cause, set to take place at 1:00 p.m. on Friday, April 4, 2014.

DATE: April 2, 2014

/s/  
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PAUL H. KAMOROFF  
Administrative Law Judge  
Office of Administrative Hearings