

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014020323

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On February 7, 2014, Student filed a due process hearing request (complaint), naming the Irvine Unified School District (District). On February 26, 2014, Student filed a notice of errata and requested leave to file an amended complaint, which was supported by a declaration under penalty of perjury from Student's counsel. District did not file an opposition.

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).)<sup>1</sup> 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 counsel states in her declaration that District consented by email to the filing of an amended complaint, but she did not include a copy of the email correspondence from District's counsel. Student also did not submit a stipulation signed by District consenting to amendment. Nonetheless, District did not file opposition to the motion.

The motion to amend is timely and is granted. However, Student did not file an amended complaint in its final version. Instead, Student wrote the proposed amended complaint into, and incorporated it within, the notice of errata, including references within

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<sup>1</sup> All statutory citations are to Title 20 United States Code unless otherwise indicated.

the proposed amendment to the errata. Therefore, Student shall file and serve a clean copy of the proposed amended complaint included in the notice of errata.

#### ORDER

1. Student's request for leave to file an amended complaint is granted. The amended complaint shall be deemed filed as of the date of this order.

2. Student shall file with OAH, and serve on District, a complete and unedited copy of the amended complaint as a separate document, not later than the close of business on March 6, 2014.

DATE: March 4, 2014

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings