

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

FOUNTAIN VALLEY SCHOOL  
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2016021047

ORDER GRANTING MOTION FOR  
LEAVE TO FILE SECOND AMENDED  
COMPLAINT; ORDER DENYING  
REQUEST TO RETAIN PRESENT  
DATES FOR PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING

On February 23, 2016, Fountain Valley School District filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Parents on behalf of Student. On March 15, 2016, District filed a Motion to Amend the Due Process Hearing Request (First Amended Complaint or FAC). On March 23, 2016, OAH granted District's motion for leave to file the FAC.

On May 12, 2016, District filed with OAH a motion for leave to file a Second Amended Complaint (SAC). No opposition was received from Student.

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).)

District seeks to file the SAC so as to refine the issues alleged in the complaint and FAC. District desires to add as an issue that the portion of the February 29, 2016 assessment which was completed was appropriate so that it need not fund an Independent Education Evaluation as requested by Student's parents on May 11, 2016.

The motion to amend is timely and is granted. 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.

District also requests that the dates for Prehearing Conference and Due Process Hearing remain as scheduled per the agreement of the parties as reflected in the Order Following Prehearing Conference of May 9, 2016. District failed to include a declaration in

support of this request indicating whether it had conferred with Student as to maintaining the present hearing dates. As stated above, the filing of an amended complaint restarts the applicable timelines for due process hearings. District's request to maintain the present prehearing and due process hearing dates is therefore denied without prejudice. District may re-submit this request after conferring with Student.

## ORDER

1. District's motion to amend its complaint is granted.
2. District's motion to retain the present prehearing conference and due process hearing dates is denied without prejudice.
3. OAH shall issue a scheduling order that sets mediation, prehearing conference, and hearing dates based on a decision timeline that commences as of the date of this order.

DATE: May 25, 2016

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings