

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

EAST SIDE UNION HIGH SCHOOL
DISTRICT AND ALUM ROCK UNION
ELEMENTARY SCHOOL DISTRICT.

OAH Case No. 2016030991

ORDER GRANTING MOTION TO
AMEND COMPLAINT; ORDER
DENYING MOTION TO ADVANCE
HEARING DATES

On March 18, 2016, Parent on behalf of Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming East Side Union High School District and Alum Rock Union Elementary School District. On April 29, 2016, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). East Side and Alum Rock jointly filed a Non-Opposition to Student's motion.

The amended complaint is identical to the complaint but adds an Individualized Education Program team meeting occurring on April 22, 2016, which was an amendment IEP team meeting as to the March 13, 2016 IEP. Student contends that the parties have reached an agreement to permit the filing of the amended complaint and to have the Prehearing Conference and Due Process to proceed as scheduled.

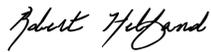
An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) 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).)

The motion to amend is timely and is GRANTED. The amended complaint shall be deemed filed on the date of this order. However, Student has not provided support for his motion to advance the hearing dates. Although Student's motion to amend states that the parties have agreed to advance the hearing dates and maintain the present hearing dates, there is no evidence that the respondent school districts have agreed to waive the mandatory resolution session regarding the amended complaint and no evidence that the districts are in agreement to maintain the present hearing dates. Student does not attach any declaration in support of his motion to advance the dates, and does not attach any correspondence between the parties indicating the parties' agreement to maintain the present hearing dates. Although the districts filed a joint non-opposition to Student's motion, the non-opposition does not

indicate agreement to waive the resolution session and to advance the hearing dates. The only thing the districts reference is their non-opposition to Student's motion to amend. Therefore, all applicable timelines shall be reset as of the date of this order. The Office of Administrative Hearings shall issue a new scheduling order. If the parties wish to waive resolution and wish to advance the hearing dates, they may file a motion addressing those issues.

IT IS SO ORDERED.

DATE: May 06, 2016

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ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings