

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016040358
v.	
DOWNEY UNIFIED SCHOOL DISTRICT,	
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DOWNEY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016020526
v.	
PARENT ON BEHALF OF STUDENT,	
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DOWNEY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016031078
v.	ORDER GRANTING MOTION TO AMEND
PARENT ON BEHALF OF STUDENT.	

On February 11, 2016, Downey Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2016020526 (District's FAPE Case), naming Student. On March 21, 2016, District filed a Request for Due Process Hearing in OAH case number 2016031078 (District's Assessment Case), again naming Student. On April 6, 2016, Parent filed a Request for Due Process Hearing in OAH case number 2016040358 (Student's Case), naming District. Student moved to consolidate those cases on April 6, 2016, and consolidation was granted on April 13, 2016.

On May 23, 2016, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint) in Student's Case. Student informed OAH and District that the motion had been filed during the prehearing conference held that day. The Administrative Law Judge directed the parties to meet and confer on the motion immediately following the PHC to determine District's position on the request to amend. Although District contacted OAH staff to inform them that it would be responding to the motion, as of the drafting of this Order, no response has been received from District.

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 was timely filed, but was not ruled on more than five days prior to hearing because District had not received the motion in time to take a position on the request to amend. The Order Following Prehearing Conference, Item 8, requested that District immediately inform OAH response whether the motion was opposed. District has not done so. OAH delayed ruling on the motion to give District the opportunity to be heard. Having done so, it would be inequitable to deny the motion to amend as untimely. Accordingly, having received no opposition to the motion, it will be granted.

The motion to amend was timely filed 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. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

DATE: May 26, 2016

DocuSigned by:
Chris Butchko
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CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings