

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CALIFORNIA VIRTUAL ACADEMIES.

OAH Case No. 2016060177

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On May 24, 2016, Student, through his parents, filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming California Virtual Academies. On June 7, 2016, Student, through counsel, filed an amended complaint, again naming California Virtual Academies,<sup>1</sup> which OAH has treated as a motion to amend. California Virtual Academies has not filed an opposition to Student’s motion.

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).)

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<sup>1</sup> Student also named the special education director, a school administrator, and a general education teacher as respondents. Under the Individuals with Disabilities Education Act, special education due process hearing procedures only extend to the parent or guardian, to the student in certain circumstances, and to “the public agency involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).) A “public agency” is defined as “a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.) Individually named respondents are not public agencies and are therefore not proper parties to a request for due process. The individuals named as respondents are therefore sua sponte dismissed from this action.

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. OAH will issue a scheduling order with the new dates.<sup>2</sup>

IT IS SO ORDERED.

DATE: June 16, 2016

DocuSigned by:

*Darrell Lepkowsky*

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DARRELL LEPKOWSKY

Administrative Law Judge

Office of Administrative Hearings

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<sup>2</sup> Student's amended complaint includes a motion for stay put, which will be addressed in a separate order.