

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2016060363

v.

BERKELEY UNIFIED SCHOOL DISTRICT,

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BERKELEY UNIFIED SCHOOL DISTRICT,

OAH Case No. 2016050708

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO  
AMEND COMPLAINT AND DENYING  
MOTION TO CONSOLIDATE  
WITHOUT PREJUDICE

On May 13, 2016, Berkeley Unified School District filed a Due Process Hearing Request with the Office of Administrative Hearings, naming Student. On June 3, 2016, Student filed a Request for Due process Hearing in OAH Case Number 2016060363 naming Berkeley. On June 2, 2016, Student filed a motion to consolidate Student's case with Berkeley's case. Berkeley did not oppose the request to consolidate.

On June 3, 2016, before receiving a ruling on Student's motion to consolidate his original complaint with Berkeley's complaint, Berkeley filed a motion to amend its complaint (amended complaint). Berkeley's amended complaint alleges additional issues. OAH has not received a response from Student to Berkeley's motion to amend.

APPLICABLE LAW

*Motion to Amend Complaint*

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.

*Motion to Consolidate*

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

In this case, Student sought to consolidate his case with the complaint originally filed by Berkeley. That complaint is no longer at issue as Berkeley sought to amend its complaint and assert new issues. Berkeley's motion to amend its complaint is granted herein. Accordingly, Student's motion to consolidate is denied as the complaint with which it sought consolidation is no longer being litigated.

ORDER

1. The motion to amend is granted.
2. The amended complaint shall be deemed filed on the date of this order.
3. Student's motion to consolidate is denied without prejudice.

DATE: June 13, 2016

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JOY REDMON  
Administrative Law Judge  
Office of Administrative Hearings