

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

Petitioner,

vs.

BONITA UNIFIED SCHOOL DISTRICT,

Respondent.

OAH CASE NO. 2006070705

**ORDER GRANTING MOTION TO
AMEND COMPLAINT**

On July 24, 2006, the Office of Administrative Hearings (OAH) received a due process hearing complaint (Complaint) from attorney Candis Watson Bowles on behalf of Petitioner Student (Petitioner), naming Bonita Unified School District (District) as the respondent. On July 27, 2006, OAH received Petitioner's amended Complaint, which added proposed resolutions not identified in the initial Complaint.

On August 22, 2006, OAH issued a Notice of Motion regarding Petitioner's motion to amend the initial Complaint. The Notice of Motion informed the District that any response to Petitioner's motion would be due at OAH five business days from August 22, 2006, the date of the Notice. OAH did not receive any response from the District.

APPLICABLE LAW

The reauthorized Individuals with Disabilities Education Improvement Act (IDEIA) became effective July 1, 2005, and significantly amended Title 20 U.S.C. section 1415(b) and (c). Under the amended sections, a 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 request occurs more than 5 days prior to the due process hearing (§1415(c)(2)(E).) In either case, the filing of an amended complaint restarts the applicable timelines for due process hearing pursuant to §1415(f)(1)(B).

DISCUSSION

Petitioner's proposed amendments add a few proposed resolutions, but do not substantially change the nature of the Complaint. Considering also that the request to amend occurred more than 5 days prior to the hearing, OAH will permit Petitioner to amend the Complaint. Pursuant to 1415 (f)(1)(B), the applicable timelines, including those for resolution, notice of insufficiency, response, and due process, restart as per the date of this order. The parties will receive an amended notice of mediation and hearing.

ORDER

1. Petitioner's motion to amend the Complaint is granted. The proposed resolutions identified in the amended Complaint, dated July 27, 2006, shall be considered as part of Petitioner's Complaint.
2. All dates are vacated and an amended notice of due process hearing will be issued.
3. All applicable timelines shall recommence beginning the date of this order.

Dated: August 30, 2006

SUZANNE B. BROWN
Administrative Law Judge
Special Education Division
Office of Administrative Hearings