

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LA MESA-SPRING VALLEY SCHOOL
DISTRICT.

OAH CASE NOs. 2008120230;
2008110231; and 2008120781

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On December 3, 2008, Parent, on behalf of Student, filed with the Office of Administrative Hearings, Special Education Division (OAH), a Due Process Complaint that named La Mesa-Spring Valley School District (District) as the respondent.

On September 14, 2009, Student filed with OAH a Motion to Amend which included a proposed Amended Complaint. On September 15, 2009, counsel for the District filed with OAH a non-opposition to the Motion to Amend. The District's response requested that OAH retain the hearing dates on calendar for the consolidated matters.

APPLICABLE LAW

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)(II).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

DISCUSSION

Amendment of the complaint is not opposed and is appropriate and timely. Pursuant to Section 1415, subsection (c)(2)(E), all applicable timelines recommence upon filing of the Amended Complaint. The Amended Complaint shall be deemed filed on the date of this Order. The parties must participate in a resolution session. Thereafter, the parties may agree to hold mediation on any date they prefer prior to the due process hearing.

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

On September 17, 2009, Student filed with OAH a request to continue the due process hearing in this matter based upon the unavailability of witnesses. Given the decision on Student's Motion to Amend, there is no need to decide this request for continuance.

ORDER

1. The Motion to Amend the due process complaint is granted.
2. The Amended Complaint is deemed filed on the date of this Order.
3. All applicable timelines shall recommence as of the date of this Order.

Dated: September 16, 2009

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings