

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2008120704

ORDER DENYING STUDENT'S  
SECOND MOTION TO AMEND

On February 18, 2009, OAH issued an order denying Student's motion to amend the due process hearing request to include allegations related to the District's failure to timely produce Student's educational records while Student's due process hearing request was pending. The District was ordered to produce all of Student's educational records and file a declaration under penalty of perjury that it had done so. The February 18, 2009 order also denied Student's request for a continuance. On February 23, 2009, the District filed a declaration under penalty of perjury that established that all of Student's educational records dated after February 8, 2006 had been provided to Student on February 3, 2009, and that all of Student's educational records pre-dating February 8, 2006 were provided to Student on February 18, 2009.

Student had filed a letter with OAH on February 18, 2009 (received by OAH at 11:26 p.m. on February 17, 2009) that OAH interprets as a second motion to amend the due process hearing request to add allegations related to the production of educational records to Student while Student's due process hearing request was pending.

An amended complaint may be filed when: (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. (20 U.S.C. § 1415(c)(2)(E).) Here, because the District has complied with OAH's order regarding the production of documents, Student's February 18, 2009 second motion to amend the due process hearing request is denied.

It is so ordered.

Dated: February 24, 2009

/s/

---

RICHARD BREEN  
Administrative Law Judge  
Office of Administrative Hearings