

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 ON REQUEST FOR  
COMPLIANCE COMPLAINT AND/OR  
AMENDMENT TO ISSUES

On February 9, 2009, Student filed a letter with the Office of Administrative Hearings (OAH) entitled "Request for Compliance Complaint Investigation and/or Amendment to Issues of the above complaint" (Letter). Student's Letter request: 1) a compliance complaint investigation regarding allegations that the Capistrano Unified School District (District) had failed to timely produce all of Student's records; 2) alternatively, if an investigation could not be completed while the hearing was pending, leave to amend her complaint to include allegations that the District had not provided all Student records in conjunction with the current due process hearing request; and 3) a continuance of the hearing. Because compliance complaints must be filed with the California Department of Education (CDE) and not with OAH, the Letter will be construed in part as a motion to compel production of documents.

*Compliance Complaint / Motion to Compel*

OAH jurisdiction does not include compliance complaints. IDEA compliance complaints must be filed with CDE. (Ed. Code, § 56043, subd. (p).) Thus, Student's letter is interpreted as a motion to compel the District to produce documents. Before a hearing, parent or guardians "have the right and opportunity to examine all school records of the child and to receive complete copies within five business days after [an oral or written] request is made by the parent or guardian." (Ed. Code, § 56043, subd. (n).) Here, Student alleges that he has not received a complete copy of his school records. The District has not opposed the allegations. Accordingly, because Student has the right to inspect and copy all school records, the District shall immediately comply with Education Code section 56043, subdivision (p), if it has not done so already. Within five days of this order, the District shall file with OAH a declaration under penalty of perjury stating that the District has complied with Education Code section 56043, subdivision (n), including the date the District complied.

*Amendment*

Alternatively, Student requested leave to amend his complaint to include an allegation relating to compliance with Education Code section 56043, subdivision (n). Because document production has been ordered, the request to amend is denied.

*Continuance*

Finally, Student requested a continuance, asserting that he has been delayed in finding an attorney because additional Student records going back to the 1990's may not have been produced by the District to Student in a timely fashion. However, the 60 day continuance granted to Student on February 3, 2009, was intended to include sufficient time for Student to resolve issues like document production as part of the process of retaining an attorney. The request for a further continuance is denied.

ORDER

1. If it has not already done so, the District shall immediately comply with Education Code section 56043, subdivision (p) and produce all of Student's educational records. Within five days of this Order, the District shall file a declaration under penalty of perjury stating that the District has complied with Education Code section 56043, subdivision (n), including the date the District complied.

2. Student's motions to amend the due process hearing request and for a continuance are denied.

It is so ordered.

Dated: February 17, 2009

/s/

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RICHARD BREEN  
Administrative Law Judge  
Office of Administrative Hearings