

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT(s) on behalf of STUDENT,

v.

COMPTON UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2008120847

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On December 29, 2008, Student filed a Due Process Hearing Request (Complaint), naming Compton Unified School District (District) as the respondent.

On February 17, 2009 Student filed a Motion for Leave to Amend Due Process Complaint (Motion to Amend) and lodged an Amended Request for Due Process Hearing (Amended Complaint). District has not responded to the Motion to Amend.

APPLICABLE LAW

In general, 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).)<sup>1</sup> The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

DISCUSSION

The telephonic PHC in this case was held February 13, 2009 and attended by Student and District through their respective attorneys at law. During the PHC, District objected to Student's PHC Statement as in excess of Student's Complaint. The parties and ALJ discussed the matter and Student's attorney indicated a willingness to amend the Complaint, if the parties did not otherwise resolve the matter in the coming days. The ALJ informed both parties that, based on their discussion, his intended Order Following PHC would include language that, "should Student file a motion to amend her Complaint, Student will not be penalized for tardiness, if the motion is filed at or before the start of the DPH." Neither party objected to the proposed order and therefore, both parties implicitly stipulated to same. Therefore, District had notice of the likely amendment and will not be surprised or harmed

---

<sup>1</sup> All statutory citations are to Title 20 United States Code unless otherwise indicated.

by it. Additionally, the Motion to Amend was filed more than five days prior to the scheduled DPH. Based on the circumstances and conduct of the parties in this case, the Motion to Amend and Amended Complaint shall be deemed timely and appropriate.

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.

#### ORDER

1. The Motion to Amend the 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, and a new scheduling order shall issue.

Dated: February 20, 2009

/s/

---

STEVEN CHARLES SMITH  
Administrative Law Judge  
Office of Administrative Hearings