

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009060876

ORDER GRANTING STUDENT'S
REQUEST TO WITHDRAW ISSUES

On June 17, 2009, parent on behalf of student filed a Request for Due Process Hearing (complaint). On July 20, 2009, parent filed a motion with the Office of Administrative Hearings (OAH) requesting to withdraw certain issues alleged in the complaint.

On July 27, 2009, Los Angeles Unified School District (LAUSD) was contacted by OAH and invited LAUSD to file any opposition to the motion. OAH has not received an opposition.

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

Parties are free to amend their pleadings prior to hearing. However, Student by dismissing Issues 6 and 11 regarding the 2008-2009 school year is not amending the complaint, but rather limiting the issues for hearing. Therefore, Student's request to dismiss Issues 6 and 11 regarding the 2008-2009 school year is granted. If Student, wishes to add

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

these issues back into the complaint, or allege new issues, Student will need to file a motion to amend the complaint. (20 U.S.C. § 1415(c)(2)(E)(i).)

ORDER

1. Parent's motion to withdraw Issues 6 and 11 regarding the 2008-2009 school year is granted.
2. All dates remain on calendar.

Dated: July 29, 2009

/s/

GARY GEREN
Administrative Law Judge
Office of Administrative Hearings