

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

TUSTIN UNIFIED SCHOOL DISTRICT,

v.

PARENTS on behalf of STUDENT.

OAH CASE NO. 2009100459

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On September 28, 2009, the Tustin Unified School District (District) filed with the Office of Administrative Hearings, Special Education Division (OAH) a Request for Due Process Hearing that named Student as the respondent.

Currently, in this case, there is a prehearing conference set for November 23, 2009, and a due process hearing set for December 1 and 2, 2009.

On October 28, 2009, counsel for the District filed with OAH a Motion to Amend Request for Due Process Hearing. The motion included a proposed First Amended Request for Due Process. Counsel for Student has not filed a response to the Motion to Amend.

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

DISCUSSION

The District's Motion to Amend 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 District's proposed First Amended Request for Due Process shall be deemed filed on the date of this Order. The parties may agree to hold mediation on any date they prefer prior to the due process hearing.

ORDER

---

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

1. The Motion to Amend Request for Due Process Hearing is granted.
2. The District's First Amended Request for Due Process Hearing is deemed filed on the date of this order.
3. All applicable timelines shall recommence as of the date of this order.

Dated: November 04, 2009

/s/

---

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