

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LAKE ELSINORE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009100938

ORDER GRANTING REQUEST TO
AMEND COMPLAINT

On October 16, 2009, Vivian E. Billups, attorney for Student filed a Due Process Hearing Request¹ (complaint), against the Lake Elsinore Unified School District (District). On October 22, 2009, Student filed an Amended Request for Due Process (amended complaint), which is treated as a request to file an amended complaint.² No opposition was received from District.

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 administrative law judge grants permission, provided the administrative law judge may grant such permission at any time more than five days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II).)³ The filing of an amended complaint restarts the applicable time lines for the due process hearing. (§1415(f)(1)(B).)

DISCUSSION

Student requested leave to file an amended complaint because he obtained student records from District that gave rise to additional issues beyond those in the complaint. Student's amended complaint includes additional factual allegations, and asserts additional

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

² Within a footnote in the complaint, Student made a request to file an amended complaint. Student requested that the original time lines remain in effect upon his filing of an amended complaint.

³ All statutory citations are to Title 20 United States Code unless otherwise indicated.

claims, which were not contained in the complaint. These allegations and assertions concern the same time period as the complaint. The request to amend the complaint was not opposed, and is appropriate and timely.

Student further requested the applicable time lines not be restarted upon the filing of the amended complaint. Student has cited no authority in support of his request to maintain the original time lines. Pursuant to Section 1415, subsection (c)(2)(E), all applicable time lines recommence upon filing of an amended complaint. Therefore, Student's request to maintain the original time lines is denied.

ORDER

1. Student's request to file an amended complaint is granted.
2. Student's amended complaint is deemed filed on November 5, 2009. All time lines shall originate from November 5, 2009.

Dated: November 5, 2009

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings