

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

BREA OLINDA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009120692

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On December 11, 2009, Student filed a due process hearing request (complaint), naming Brea-Olinda Unified School District (District) as the respondent. On January 5, 2010, Student filed a motion to amend the due process hearing request (amended complaint) with an attached declaration. District did not file a response.

No opposition was received from the District.

APPLICABLE LAW AND DISCUSSION

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 days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II); Ed. Code, §56502, subd. (e).)

The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E), Ed. Code, §56502, subd. (e).)

Hearing in this matter is set to commence on February 8, 2010; therefore, this motion to amend is timely. The proposed second amended complaint contains new allegations resulting from the most recent individualized education program (IEP) meeting in December 2009 as well as new issues from the June 2009 IEP. It is likely that the same witnesses will be used to support or defend against the new allegations and similar documentary evidence will be introduced. In the interests of promoting only one hearing that allows the parties to save time and money, as well as promote the most efficient use of the judicial economy in hearing the various issues all at once, amending the pleadings in this case is reasonable.

Student's request is timely, there is no opposition, and the interests of judicial economy promote hearing all the issues in this matter in one hearing. As such, the motion to amend is granted.

The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

It is so ordered.

Dated: January 20, 2010

/s/

TRINA A. HIRSIG
Administrative Law Judge
Office of Administrative Hearings