

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

IRVINE UNIFIED SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2010020165

ORDER GRANTING MOTION TO
AMEND DUE PROCESS COMPLAINT

On February 2, 2010, Sundee M. Johnson, attorney for the Irvine Unified School District (District), filed a Due Process Hearing Request (complaint) against Student. On February 19, 2010, District filed a motion to amend the complaint (amended complaint). On February 24, 2010, Michael E. Jewell, attorney for Student, filed an opposition to District's motion to amend. Student requested continuance of all hearing dates, if District's motion is granted.

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(c)(2)(E)(i)(II)(ii); Ed. Code § 56502, subd. (e).)

DISCUSSION

Even though Student has opposed District's motion to amend its complaint, District request to amend its complaint is appropriate and timely. Student has not disputed District's assertion that there is a dispute regarding the issue of "continuing reimbursement" to Student's parents for privately provided services to Student. In fact, Student confirms that the reimbursement issue is an ongoing dispute. Therefore, it promotes judicial economy and avoids inconsistent rulings if all issues relating to the dispute between parties are heard at the same time. District's motion to amend its complaint is granted. All applicable timelines

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

shall recommence upon filing of the amended complaint. The amended complaint shall be deemed filed on the date of this order.

Regarding Student's motion for continuance, since the filing of an amended complaint restarts the applicable timelines for the due process hearing, Student's motion is denied as moot.

ORDER

1. The motion to amend the due process 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. All previously set dates are vacated.
4. Student's motion to continue is denied as moot.

Dated: March 03, 2010

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings