

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010030131

ORDER DENYING MOTION TO
AMEND COMPLAINT

On February 25, 2010, Student filed a [Due Process Hearing Request] (complaint), naming Oakland Unified School District (District) as the respondent. On January 20, 2011, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). The matter is scheduled for hearing on January 31, 2011 and February 1-2, 2011. No opposition was received from District.

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).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).)

The complaint was continued on April 1, 2010, July 30, 2010, and December 2, 2010. The order granting the last continuance stated that no further continuances would be granted. The IDEA contemplates a speedy resolution of this matter. A further extension is unwarranted as the complaint was filed in February 2010 and granting the amendment would cause all hearing timelines to reset and result in issues not being addressed at hearing until over a year had passed since the first filing. Moreover, denying the amendment does not deprive Student of the opportunity to file a new due process hearing request to address any issues that have arisen since the original filing. Accordingly, for these reasons, the motion to amend is denied.

ORDER

Student's motion to amend is denied. All dates remain as calendared.

Dated: January 26, 2011

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings