

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MENIFEE UNION SCHOOL DISTRICT  
AND RIVERSIDE COUNTY OFFICE OF  
EDUCATION.

OAH CASE NO. 2010030663

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On March 5, 2010, Student filed a Due Process Hearing Request (complaint) naming the Menifee Union School District (Menifee) and the Riverside County Office of Education (RCOE). On November 12, 2010, Student filed a Motion to Amend the Due Process Complaint, attaching a proposed amended complaint. On November 17, 2010, Menifee and RCOE filed a response to Student's motion to amend, opposing it only in part.

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).)

Student's original complaint alleged denials of a free appropriate public education by Menifee and RCOE up to January 2010. The proposed amended complaint makes three changes: (1) it adds Riverside County Mental Health (RCMH) as a party; (2) it adds Perris Union High School District (Perris) as a party; and (3) it adds allegations concerning the time period from January 2010 to the present.

Menifee and RCOE do not oppose the addition of RCMH as a party. They agree that "RCMH was involved with Student's case during the time periods initially alleged" by Student and that its addition "will facilitate resolution of [Student's] claims."

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

Menifee and RCOE do oppose the addition of Perris as a party and the inclusion of allegations relating to acts from January 2010 to the present. They state that allowing those amendments “will require the consideration of additional evidence,” and of “additional legal issues not raised in the original Complaint.” But they do not explain why those claims justify denying the motion to amend. Those arguments, if accepted, would probably require the denial of most motions to amend. Menifee and RCOE cite no authority that would require or permit denial of a motion to amend for those reasons. Nor do they address the prospect that, if Student’s motion to amend is denied, he will simply file a separate complaint and move to consolidate the matters.

Menifee and RCOE also state that adding Perris “will unreasonably delay this matter and disrupt the speedy resolution of claims” against Menifee and RCOE. However, since Menifee and RCOE agree that RCMH is a proper party and should be added, that amendment by itself will require that the timeline for this matter to be restarted under section 1415(f)(1)(B). Then the matter will be resolved within the statutory period, whether or not Perris is a party and the new allegations are considered. Thus there is no persuasive showing of delay that would be unreasonable or that would prejudice the interests of Menifee or RCOE.

#### ORDER

1. Student’s motion to amend his complaint is timely and is granted in full.
2. The amended complaint shall be deemed filed on the date of this order.
3. All dates currently on calendar in this matter are vacated, and all applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.
4. Further pleadings in this matter shall include Riverside County Mental Health and the Perris Union High School District in the caption, and Student shall promptly serve the amended complaint on those parties.

IT IS SO ORDERED.

Dated: November 22, 2010

/s/  
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CHARLES MARSON  
Administrative Law Judge  
Office of Administrative Hearings