

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

SEQUOIA UNION HIGH SCHOOL
DISTRICT,

OAH CASE NO. 2010100554

SEQUOIA UNION HIGH SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2010071307

ORDER DENYING MOTION TO
STRIKE AMENDED COMPLAINT

On December 20, 2010, the Office of Administrative Hearings (OAH) granted Student's request to amend his complaint and deemed the amended complaint filed as of the date of the order. On December 20, 2010, Eugene Whitlock, attorney for the Sequoia Union High School District (District), filed a motion to strike Student's amended complaint.¹ On December 22, 2010, David H. Tollner, attorney for Student, filed a response to District's motion to strike.²

DISCUSSION AND ORDER

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.

¹ On December 22, 2010, District filed a motion to reconsider OAH's December 20, 2010 order allowing Student to amend his complaint. That motion will be addressed separately.

² Student's response to District's motion to strike is contained within his response to District's motion for reconsideration.

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

District contends that the amended complaint should be stricken because District did not consent to the amendment and because OAH did not give permission for Student to amend his complaint. When a party files an amended complaint, OAH analyzes whether the amended complaint is appropriate and has met the statutory requirements for a party to amend its complaint, irrespective of whether the party has made a specific request to amend the complaint or whether any other party has opposed the amended complaint. OAH will only allow a party to amend its complaint and deem that amended complaint filed, if it meets the statutory requirements. Furthermore, one of the factors considered in allowing a party to amend its complaint is whether the amended complaint promotes judicial economy and prevents multiple actions between the parties.

Here, Student's amended complaint met the statutory timeline for amending a complaint, promoted judicial economy and prevented multiple actions between the parties by allowing Student to raise all claims on the same set of facts in one action. District's consent was not required as the amended complaint was filed more than five days before the due process hearing. Accordingly, District's motion to strike is denied.

IT IS SO ORDERED.

Dated: December 24, 2010

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings