

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NORWALK-LA MIRADA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2010100752

ORDER GRANTING MOTION TO
AMEND COMPLAINT AND MOTION
TO CONTINUE DUE PROCESS
HEARING ON AMENDED
COMPLAINT.

On October 13, 2010, Student filed a Due Process Hearing Request (complaint), naming District. On February 28, 2011, a telephonic PHC was held, and Student was permitted to file a motion to amend the complaint by March 1, 2011. On March 1, Student filed a Motion to Amend the Due Process Complaint, which included the proposed amended complaint (amended complaint). On March 2, 2011, the parties file a Stipulation permitting amendment of the complaint and District also filed a statement of non-opposition. Student seeks to include the issue of whether the District denied Student a FAPE during the 2008-2009 school year by failing to conduct an appropriate speech and language assessment pursuant to the October 14, 2008 assessment plan and prior to terminating Student's speech and language services. In addition, the parties requested a continuance of the hearing on the amended complaint to the following mutually agreed, continuous dates: May 31, 2011, June 1, 2011, and June 2, 2011.

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).)¹ 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 for good cause. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332 .) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

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

The motion to amend is timely and is granted. The amended complaint shall be deemed filed as of the date of this order. All applicable timelines shall be reset as of that date.

The parties' request for a continuance is also granted because good cause exists to give the parties mutually agreed, continuous hearing dates. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: March 04, 2011

/s/

DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings