

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ALHAMBRA UNIFIED SCHOOL
DISTRICT AND LOS ANGELES
COUNTY DEPARTMENT OF
EDUCATION.

OAH CASE NO. 2010120726

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On December 21, 2010, Student filed a Due Process Hearing Request (Complaint), naming Alhambra Unified School District (District) and Los Angeles County Department of Education (LACOE). On May 2, 2011, (Student) filed a Motion to Amend the Due Process Hearing Request (Motion). On May 3, 2011, District and LACOE each filed an opposition to the Motion.

The Motion seeks permission to file an amended Complaint to allege additional defects in the IEPs at issue, as well as to allege matters that occurred subsequent to the filing of the Complaint, and to allege that Student requires placement in a specific NPA. The Motion is based, in part, on Student's contention that she did not timely receive requested documents from District and LACOE, and on additional information provided by Student's mother since the filing of this action. District and LACOE contend, among other things, that the Motion is untimely, as it was filed on the day of the PHC, and that counsel for Student should have been aware of the facts that are alleged in the amended Complaint at the time, or shortly after, the original Complaint was filed.

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 not later 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).)

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

The Motion to Amend is timely. In general, the new allegations in the proposed amended Complaint are relevant to the matters that were alleged in the original Complaint, but they are not the same. Thus, the amended Complaint is necessary, or the new allegations could not be heard in this action. (Ed.Code, § 56502, subd. (i).) Judicial efficiency will be served if all of these issues are addressed in one action, and, under the circumstances of this case, Student should have the opportunity to present all of these matters in this due process hearing.

The Motion is GRANTED. The amended Complaint shall be deemed filed on the date of this Order. All applicable timelines shall be reset as of the date of this Order. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: May 4, 2011

/s/

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings