

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:  PARENTS ON BEHALF OF STUDENT,  v.  CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2011020995
CAPISTRANO UNIFIED SCHOOL DISTRICT,  v.  PARENTS ON BEHALF OF STUDENT.	OAH CASE NO. 2010110620  ORDER GRANTING MOTION TO AMEND COMPLAINT

On November 16, 2010, Capistrano Unified School District (District) filed a Request for Due Process Hearing (complaint) naming Student. On February 24, 2011, Parents, on behalf of Student, filed a complaint naming District. On March 7, 2011, the Office of Administrative Hearings consolidated the two cases. On June 20, 2011, District filed a Motion to Amend the Due Process Hearing Request (amended complaint). Student does not object to the motion.

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).)

District represents that on April 7, 2011, the parties stipulated to permit either party to amend its complaint, provided the amendment was done at least 14 days prior to the hearing. The hearing in this case is scheduled to start on July 5, 2011. Therefore, in accordance with the parties' stipulation, District's motion to amend its complaint is timely.

District's original case involves May 2010 assessments, and May and June 2010 individualized education program (IEP) offers. District now asserts that Student's IEP team

held his annual IEP meeting on May 19, 2011. Based on the results of the meeting, District contends it offered Student a free appropriate public education (FAPE). District proposes to amend its complaint to seek a determination whether District's May 19, 2011 offer constituted a FAPE. The issues relating to the May 19, 2011 IEP also relate to the issues that were raised in the original complaint regarding Student's unique needs related to his disability, and appropriate placement and related services, and will likely involve the same witnesses. It is in the best interests of justice and judicial efficiency to avoid litigating many aspects of the issues twice.

The motion to amend is reasonable, timely, and 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. The Office of Administrative Hearings will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: June 27, 2011

/s/

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TROY K. TAIRA  
Administrative Law Judge  
Office of Administrative Hearings