

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

RED BLUFF ELEMENTARY SCHOOL
DISTRICT.

OAH CASE NO. 2011080264

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On August 8, 2011, Parents on behalf of Student (Student) filed a Due Process Hearing Request (complaint), naming the Red Bluff Elementary School District (District) as respondent. On August 18, 2011, the District filed an Answer to the complaint. On October 12, 2011, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). The District filed an opposition to Student's motion on October 10, 2011. Student filed a reply to the District's opposition on October 17, 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).)

DISCUSSION

Student alleges in the complaint that the District has failed to provide her with a free appropriate public education (FAPE) both substantively and procedurally since January 18, 2011. Student seeks to file an amended complaint to add an allegation that the District conducted an assessment of Student by a private educational consultant, Kandis Lightall, on September 7 and 20, 2011 for a total of five hours and 35 minutes without consent of Student's parents. The parties agree that Lightall was retained by the District pursuant to a settlement agreement entered between the parties. Lightall was to oversee the implementation of the October 13, 2010 Individualized Education Program (IEP) and to provide training to school staff and parents. The District, in its opposition, includes a

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

declaration from Lightall that she did not conduct an assessment. Student counters with a declaration from Student's mother alleging the contrary.

Although the new issue does not directly relate to the issues alleged in the complaint, the issue is somewhat related and would involve a witness who would be testifying regarding the issues in the complaint. Therefore, permitting the Student to file her amended complaint would lead to judicial efficiency and the avoidance of a second due process hearing. The District is not prejudiced by the addition of the new issue as evidenced by its opposition including the Lightall declaration.

The motion to amend is 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. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: October 17, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings