

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ALHAMBRA SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011080733

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On August 18, 2011, District filed a Due Process Hearing Request (complaint), naming Student. On October 28, 2011, District filed a Motion to Amend the Due Process Hearing Request (amended complaint). Student filed a reply on November 2, 2011 stating that he was not opposed to the amended complaint but was opposed to any rescheduling of the hearing set to commence on November 8, 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).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Here, the motion to amend is timely and is granted. The District's amendment to add issues related to an IEP team meeting that occurred after the District's original filing makes sense given the allegations of the original complaint. With respect to Student's opposition to the rescheduling of the hearing on District's complaint, an order granting the amended complaint restarts the timelines as a matter of law. Thus, Student's opposition to rescheduling fails. 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: November 03, 2011

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings