

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011081083

ORDER GRANTING MOTION FOR
LEAVE TO SECOND AMEND
COMPLAINT

On August 25, 2011, the Irvine Unified School District (District) filed a Due Process Hearing Request (complaint), that named Student. Following the filing and service of the complaint, Student filed a request with the District for an Independent Education Evaluation (IEE) because Parents contested the appropriateness of the District's psycho-educational/behavior assessment conducted in January 2011.

On September 21, 2011, District filed a first amended complaint (FAC) pursuant to a joint stipulation of the parties. The FAC added as an issue the appropriateness of the District's psycho-educational/behavior assessment.

On September 22, 2011, the Office of Administrative Hearings (OAH) issued an order granting a joint request for continuance. The order schedules the Prehearing Conference (PHC) for December 28, 2011 and the Due Process Hearing (DPH) for January 1-3, 2012.

On November 9, 2011, Student filed a request for an IEE because Parents contested the District's May 24, 2011 assistive technology (AT) assessment. On November 18, 2011, the District filed its motion for leave to file a second amended complaint (SAC) so as to include the new IEE request as an issue. The District did not attach a copy of the proposed SAC. The District requests that the dates set in the September 22, 2011 order remain on calendar. Student filed an opposition on November 22, 2011. In his opposition, Student does not contest the filing of the SAC. Student contests that the matter should proceed as scheduled.

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).)

The motion to amend is timely and is granted. The District shall file its SAC within five business days from the date of this order. Should the District file an SAC, OAH will issue a new scheduling order based on the date of the filing of the SAC. If the District elects not to file an SAC, all dates will remain on calendar.¹

IT IS SO ORDERED.

Dated: November 22, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

¹ In the event that the District elects not to file an SAC, the District should notify OAH and Student in writing within five business days.