

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

DUBLIN UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012010475

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On January 18, 2012, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings (OAH), naming the Dublin Unified School District (District). On May 9, 2012, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint), and that the hearing in this matter, presently set for May 21, 22 and 23, 2012, be continued until the week of June 11, 2012. On May 11, 2012, the District filed an opposition to both the motions to amend and continue the hearing.¹

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).)² 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 because Student's amended complaint deletes allegations barred by the parties' previous settlement agreement, clarifies other factual contentions, the request was made more than five days before the hearing commenced, and is Student's first request to amend the complaint.

As to Student's request to schedule the hearing for the week of June 11, 2012, the granting of Student's amended complaint recommences the applicable timelines, including the 30-day resolution session period. (20 U.S.C. §§ 1415(c)(2)(E)(ii) & (f)(1)(B).) While

¹ On May 9, 2012, the District filed a motion to dismiss Student's claims that occurred on or before October 9, 2010, due to the parties' prior settlement agreement. The District's motion is moot with the granting of Student's motion to amend, which now alleges facts from October 10, 2010, onward.

² All statutory citations are to Title 20 United States Code unless otherwise indicated.

dates during the week of June 11, 2012, are outside the 30-day resolution session period, counsel for the District is not available that week due to a previously set matter. Therefore, OAH shall issue a new scheduling order with dates for mediation, Prehearing Conference and the Due Process Hearing, and the parties may meet and confer and inform OAH as to any other mutually agreeable dates if the dates in the scheduling order are not convenient for the parties.

Accordingly, 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 11, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings