

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

EL MONTE UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2012020796

ORDER GRANTING DEPARTMENT
OF MENTAL HEALTH'S MOTION TO
DISMISS AND GRANTING
STUDENT'S MOTION TO AMEND
COMPLAINT

On February 22, 2012, Student filed a Due Process Hearing Request (complaint), naming the Los Angeles County Department of Mental Health (DMH) as respondent.

On February 27, 2012, DMH timely filed a motion to be dismissed as a party.

On February 28, 2012, Student filed a statement of non-opposition to DMH's motion to be dismissed. On February 29, 2012, Student filed and served on the El Monte Union High School District (District) a Motion to Amend the Due Process Complaint including facts, an issue, and proposed resolutions, and naming District as the sole respondent (Student's Motion). No opposition was received from District.

DMH's Motion to be Dismissed as a Party

DMH's motion argues that it is not responsible for the resolutions proposed in the complaint, and Student neither opposes DMH's motion nor seeks to name DMH as a respondent in his proposed amendment. Accordingly, because Student is free to choose who to name as the responsible public agency, DMH's motion to be dismissed as a party to this due process proceeding is granted.

Student's Motion to Amend Complaint

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 facts, issue and resolutions set forth in Student's Motion are deemed to constitute Student's Amended Complaint, and Student's 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: March 02, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings