

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 MOTION TO
FILE SECOND AMEND COMPLAINT

On February 22, 2012, Parent on behalf of Student (Student) filed a Due Process Hearing Request (complaint), naming the Los Angeles County Mental Health Agency (CMH) as respondent. On February 27, 2012, CMH filed a motion to be dismissed as an improper party. On February 29, 2012, Student moved to file an amended complaint naming El Monte Union High School District as respondent and dismissing CMH as a party. On March 2, 2012, the Office of Administrative Hearings (OAH) granted CMH's motion to dismiss and granted Student leave to file the amended complaint.

The amended complaint contained one issue involving the District's offer of a free appropriate public education (FAPE) at the February 21, 2012 Individualized Education Program (IEP) team meeting.

On April 25, 2012, Student filed a "Supplemental Motion to Amend Complaint." Student seeks to file a second amended complaint to allege a new issue that the District denied Student a FAPE at an IEP meeting on April 24, 2012. This motion is deemed a motion to file a second amended complaint.

No opposition was received from the District.

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).)

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

The motion to amend is timely and is granted. Judicial economy will be served by permitting the parties to proceed with the second amended complaint. 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 9, 2012

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings