

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRUITVALE SCHOOL DISTRICT,  
FRUITVALE SCHOOL DISTRICT  
BOARD MEMBERS, BOARD MEMBERS  
OF KERN COUNTY SUPERINTENDENT  
OF SCHOOLS, VALLEY OAKES  
CHARTER SCHOOL, OUR LADY OF  
GUADALUPE SCHOOL.

OAH CASE NO. 2012030900

ORDER GRANTING MOTION TO  
FILE SECOND AMENDED  
COMPLAINT

On March 22, 2012, Parent on behalf of Student (Student) filed a Due Process Hearing Request (complaint), naming Fruitvale School District, Kern County Superintendent of Schools (Superintendent) and Kern County Consortium Special Education Local Plan Area (SELPA).<sup>1</sup> On April 25, 2012, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). On April 25, 2012, Administrative Law Judge Adeniyi Ayoade granted Student's Motion to Amend and deemed the amended complaint filed as of April 25, 2012. On April 27, 2012, OAH received a document from Student entitled "motion to amend complaint." This document is deemed Student's second amended complaint and will be treated as a motion to further amend the first amended complaint. The Office of Administrative Hearings (OAH) has not received a response 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).)<sup>2</sup> The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

---

<sup>1</sup> On April 24, 2012, pursuant to separate motions by SELPA and the Superintendent, OAH issued an order dismissing both SELPA and the Superintendent.

<sup>2</sup> All statutory citations are to title 20 United States Code unless otherwise indicated.

Student seeks to add additional parties to his amended complaint which can only be accomplished by further amendment. As noted above, Student has a statutory right to amend his complaint. The due process hearing in this matter is currently set to begin on June 6, 2012. Student's second motion to amend was made more than five days before the hearing was to commence. Thus, the motion to amend is timely and is granted. The second 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.

Student is hereby advised, this second amended complaint of April 27, 2012, supersedes the first amended complaint deemed filed on April 25, 2012, as well as the original complaint filed March 22, 2012. If there are issues Student seeks to incorporate from his prior complaints, Student will need to file a further amended complaint. For example, if Student seeks to pursue his original Issue Four (denial of speech and language SELPA services and unmet needs in speech, socialization and behavior) or to pursue issues previously dismissed, these issues are not currently contained within the April 27, 2012 second amended complaint.

**A parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.**

#### ORDER

1. Student's second motion to amend his complaint is granted.
2. Student filed his second amended complaint on April 27, 2012. Student shall promptly serve a copy of his second amended complaint, and a copy of this Order on Valley Oakes Charter School, Our Lady of Guadalupe, the Fruitvale School District Board Members, and Superintendent Board Members. Student shall file with OAH a proof of service detailing that all named parties have received Student's second amended complaint and this Order.
3. All applicable timelines shall be reset as of the date of this Order. OAH will issue a scheduling Order with the new dates.

Dated: May 2, 2012

/s/  
\_\_\_\_\_  
THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings