

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT AND ALAMEDA COUNTY
BEHAVIORAL HEALTH CARE
SERVICES

OAH CASE NO. 2012040848

ORDER GRANTING LEAVE TO
AMEND COMPLAINT AND
CONTINUING PREHEARING
CONFERENCE

On April 19, 2012, Student filed a Due Process Hearing Request (complaint) naming the Oakland Unified School District (District) and the Alameda County Behavioral Health Care Services (County Mental Health). On June 22, 2012, Student filed a Motion for Leave to Amend the complaint (Motion to Amend). The Motion to Amend did not contain a proposed amended complaint.¹

District filed an opposition to the Motion to Amend on June 25, 2012. In its opposition, District argues that it would be prejudiced if Student is permitted to amend the complaint as it has started its preparation for the due process hearing currently scheduled to begin on July 16, 2012. County mental Health filed a joinder to District opposition on June 26, 2012. As discussed below, Student's Motion to Amend is granted.

APPLICABLE LAW AND DISCUSSION

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).)

¹ Student indicated that the amended complaint would be filed subsequently.

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

While the issue of possible prejudice that has been raised by District, and joined in by County Mental Health, is not without merit, District's argument is nonetheless unpersuasive. It is true that a delay may interfere with District's and/or County Mental Health's current preparation for hearing, and thus could result in some prejudice to both. However, the benefit of litigating all of Student's claims in one action, avoiding possible inconsistent rulings, the promotion of judicial economy and conserving the parties' litigation resources outweighs any temporary prejudice.³

Thus, as noted earlier, because the due process hearing in this matter is currently set to begin on July 16, 2012, Student's Motion to Amend is timely. Student's Motion was made more than five days before the hearing commenced, and furthermore, as there has been no prior amendment to the complaint, the Motion to Amend is granted.

ORDER

1. Student's Leave to Amend the complaint is granted.
2. The amended complaint shall be filed on or before July 10, 2012.
3. The PHC is continued to July 11, 2012, at 1:30 p.m.⁴
4. The due process hearing dates currently set in this matter are confirmed, unless the amended complaint is filed in accordance with this order.

IT IS SO ORDERED.

Dated: June 27, 2012

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings

³ Education Code section 56509 provides that "this chapter, in accordance with subsection (o) of Section 1415 of Title 20 of the United States Code, does not preclude a parent from filing a separate due process hearing request on an issue separate from a due process hearing request already filed".

⁴ Upon the filing of an amended complaint, all dates currently set in this matter shall be vacated and OAH will issue a new scheduling order setting new dates for mediation, PHC and the due process hearing. The applicable timelines for the amended complaint shall be reset as of the date the amended complaint is file with OAH.