

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012060342

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT,

GARDEN GROVE UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2012040530

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING DISTRICT'S
MOTION TO AMEND COMPLAINT

PROCEDURAL BACKGROUND

On April 12, 2012, the Garden Grove Unified School District (District) filed a Due Process Hearing Request (complaint), naming Parent on behalf of Student (Student). The District's complaint contends that its multidisciplinary assessment of Student is appropriate such that it is not required to fund the independent educational assessment requested by Student. Student filed a separate complaint on June 6, 2012, naming the District. Student's complaint contends that the District committed procedural and substantive violations of Student's rights under the Individuals with Disabilities Education Act (IDEA). On June 22, 2012, the Office of Administrative Hearings (OAH) granted Student's unopposed motion to consolidate the two cases.

On July 10, 2012, the District filed a motion to amend its complaint. The District wishes to add a second allegation to its original complaint, seeking a determination from OAH as to whether the consent provided to Student's IEP's, assessment plan, and emergency health care plan constitute meaningful informed consent under the IDEA. The District notes in its motion to amend that Student informed the District that it did not consent to the proposed amendment. However, Student has not filed a written opposition or other response to the District's motion.

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).)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).)

The hearing in this matter is presently scheduled to begin on August 27, 2012. The District's motion to amend is therefore timely and is granted. 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: July 16, 2012

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings

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