

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

ORANGE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012070544

ORDER GRANTING JOINT MOTION
TO AMEND COMPLAINT AND
GRANTING JOINT MOTION TO
CONTINUE PHC AND DPH

On July 17, 2012, Student filed a Due Process Hearing Request (complaint), naming the Orange Unified School District (District). After a number of continuances, the matter was set for prehearing conference (PHC) on May 22, 2013, with the due process hearing scheduled to begin on June 4, 2013. At the PHC, Student informed the Administrative Law Judge (ALJ) that she intended to file an amended complaint. The District indicated that it was not opposed to the amendment. Because the parties currently have an interim settlement agreement and wish to try to resolve the issues presented by Student in her original complaint and proposed amended complaint, the parties jointly requested that hearing on Student's amended complaint be continued until September, 2013. The ALJ agreed to trail the PHC to give Student an opportunity to file her amended complaint.

Student promptly filed her amended complaint on May 22, 2013, along with a stipulation signed by counsel for both parties to the amendment. The parties also submitted a formal joint request to continue the hearing.

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 motion to amend is 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.

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

The parties also jointly move to continue all dates in this case. They request dates in September to permit them to attempt to resolve all outstanding issues and because the District's witnesses will be on vacation during the time the hearing would normally be set pursuant to the grant of Student's motion to amend.

Good cause appearing, the parties' joint motion to amend is GRANTED as follows:

MEDIATION: August 28, 2013, starting at 9:30 a.m., at the District's offices located at 1401 North Handy Street, Orange, California 92856.

TELEPHONIC PREHEARING CONFERENCE: September 9, 2013, at 1:00 p.m.²

DUE PROCESS HEARING: September 24 – 27, 2013, at the District's offices starting at 9:30 a.m. on September 24, 2013, and at 9:00 a.m. every other day, unless otherwise ordered.

The parties are advised that no further continuances will be granted in this matter barring extraordinary circumstances. Mutual agreement to a continuance will not constitute extraordinary circumstances.

IT IS SO ORDERED.

Dated: May 23, 2013

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings

² In their joint motion to amend the complaint and continue the hearing, the parties requested that the PHC be held on September 10, 2013. However, September 10 is a Tuesday. OAH only holds PHC's on Mondays and Fridays. The ALJ has therefore set the PHC for the Monday before the date requested by the parties.