

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012100123

v.

TEMPLETON UNIFIED SCHOOL
DISTRICT,

TEMPLETON UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2012070354

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On July 11, 2012, the Templeton Unified School District (District) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing in OAH case number 2012070354 (District's Case), naming Student. The District's Case is consolidated with Student's Case in OAH case number 2012100123, and the consolidated matter is set for a further prehearing conference (PHC) on January 7, 2013, at 1:30 p.m., and for a due process hearing beginning on January 14, 2013.

At the initial PHC for the consolidated matter on November 26, 2012, the parties stipulated that if either side intends to file an amended complaint, the motion to amend and the proposed amended complaint, must be filed no later than December 14, 2012. The parties further agreed that upon the filing of any amended complaint, all issues for hearing would be addressed at the currently scheduled hearing dates to prevent any further delays in this matter. On December 14, 2012, the District timely filed an amended complaint, which OAH deems to be a motion to amend the complaint. No opposition was received from Student.

APPLICABLE LAW

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).)

DISCUSSION

Subsequent to the filing of its initial complaint, the District convened an individualized education program (IEP) team meeting on September 6, 2012, and again on December 10, 2012. At the December 2012 IEP team meeting, the team reviewed the results of independent educational evaluations recently obtained by Student. In its amended complaint, the District seeks to add to its original issue number two, the factual determinations of the IEP teams convened in September and December 2012 in support of its contention that it may exit Student from special education services, based upon its assessment that Student is no longer eligible under the categories of autistic-like behaviors, and/or speech and language impairment, and/or other health impairment based upon autism and/or attention deficit hyperactivity disorder.

The motion to amend is timely and is granted. The amended complaint shall be deemed filed on December 14, 2012. Pursuant to the parties' stipulation and the PHC Order dated November 26, 2012, all previously calendared dates for the consolidated matter shall remain as scheduled and Student's Case shall remain the lead case for the purposes of the 45-day time line for issuance of a written decision.

ORDER

1. The District's motion to amend is granted.
2. All dates previously set shall remain as scheduled and Student's Case shall remain the primary case for the purposes of the 45-day time line for the issuance of a written decision. The PHC in the consolidated matter will be on January 7, 2013, at 1:30 p.m. The due process hearing shall be heard on January 14 through 17, 2013, and January 22 through 24, 2013. On January 14 and 22, 2013, the hearing shall begin at 1:30 p.m., and all other dates, the hearing shall begin at 9:00 a.m.

Dated: December 24, 2012

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

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