

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012120010

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On November 29, 2012, Student filed with the Office of Administrative Hearings a Due Process Hearing Request (complaint), naming the Los Angeles Unified School District (District). On December 7, 2012, Student filed a first amended request for a due process hearing (amended complaint), which OAH deems to be a motion to amend the complaint. The District did not file an opposition to the amended complaint.

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).)<sup>1</sup> The filing of an amended complaint restarts the applicable timelines for the due process hearing unless the parties waive application of that requirement. (20 U.S.C. §1415(c)(2)(E)(ii); Ed. Code, § 56502, subd. (e).)

DISCUSSION

The granting of a motion to amend is discretionary. Here, the District has not consented to the motion in writing but also has not filed an opposition. A comparison of the initial complaint with the proposed amended complaint shows that Student seeks to supplement her original single issue alleging the Parent's disagreement with the District's offer of a free appropriate public education (FAPE) in Student's November 26, 2012 individualized education program (IEP). Student's proposed amended complaint

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<sup>1</sup> All statutory citations are to title 20 United States Code unless otherwise indicated.

incorporates four issues and reaches back in time to December of 2010. In her amended complaint, Student identifies as issues for hearing the District's denial of a FAPE in its November 26, 2012 IEP offer by predetermining placement, by failing to offer a placement in the least restrictive environment, and by failing to provide a program which addresses all of Student's unique needs. Additionally, Student identifies as an issue for hearing the District's failure to conduct a triennial review in December of 2010 and to make an offer of a FAPE available to Student. Student's amended complaint includes additional proposed resolutions including reimbursement dating back to December 2010.

The due process hearing is currently set for January 24, 2013. The motion to amend is therefore timely. Student does not waive the statutory restart requirement, which encompasses various rights and responsibilities of the parties. Based upon the foregoing, Student's motion to amend her complaint is granted.

#### ORDER

1. Student's amended complaint shall be deemed filed on the date of this order.
2. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

Dated: December 14, 2012

/s/

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THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings