

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013051022

ORDER GRANTING MOTION FOR
LEAVE TO FILE AMENDED
COMPLAINT

On May 23, 2013, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (complaint), naming the Newport-Mesa Unified School District (District) as respondent.

On June 4, 2013, the District filed a motion to dismiss issues barred by the applicable two year statute of limitations.¹ Student filed his opposition on June 4, 2013. On August 7, 2013, OAH, by Administrative Law Judge Alexa J. Hohensee, issued an order granting in part and denying in part the District's motion. OAH limited issues one through seven to two years prior to the filing of the complaint. The order also stated that should Student want to raise issues that arose prior to May 23, 2011, "he must seek leave to amend his complaint to allege specific factual allegations that, if true, would demonstrate that an exception to the two-year statute of limitations applies."

On September 3, 2013, Student filed with OAH an amended complaint. This is deemed a motion for leave to file an amended complaint. No opposition was received from the District.

The amended complaint alleges specific facts that would demonstrate an exception to the applicable statute of limitations. Thus, Student is attempting to comply with the June 7, 2013 order.

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.

¹ The applicable statutes are Education Code § 5605 subd. (1) and 20 U.S.C. § 1415(f)(3)(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).)

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. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: September 9, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

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