

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2013051091

ORDER DENYING MOTION TO
AMEND COMPLAINT

On May 24, 2013, Student filed a Due Process Hearing Request (complaint), naming Santa Monica-Malibu Unified School District (District). On October 30, 2011, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). The District stipulated to the filing of an amended complaint.

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).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

While the motion to amend the complaint is timely, an appearance exists that the request is a continuance request. A comparison of the May 24, 2013 complaint and the amended complaint demonstrates little or no change between the pleadings, except for the addition of allegations concerning the District's June 6, 2013 individualized education plan (IEP) offer, which according to the amended complaint is substantially similar to the District's prior IEP offers. Student's motion does not set forth any explanation why an amended complaint that included allegations regarding the June 6, 2013 IEP was not filed sooner. Therefore, the motion to amend is denied without prejudice and all previously set dates shall remain on calendar. The motion to amend may be resubmitted by including a declaration under penalty of perjury from Student's legal counsel why the complaint was not amended sooner to include allegations regarding the June 6, 2013 IEP team meeting.

IT IS SO ORDERED.

Dated: November 1, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings