

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CLOVIS UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013060095

ORDER GRANTING MOTION TO
AMEND COMPLAINT AND
DENYING REQUEST TO CONTINUE
PREHEARING CONFERENCE

On May 31, 2013, Parent on behalf of Student (Student) filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings (OAH) naming the Clovis Unified School District (District). On July 10, 2013, Attorney Colleen A. Snyder representing Student filed a Motion to Amend Complaint along with an amended complaint. Student also filed a separate request to continue the prehearing conference (PHC) in this matter, which is currently calendared for July 15, 2013. On July 12, 2013, Attorney Karen E. Samman representing the District filed a statement of non-opposition to Student's request to amend the 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).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

DISCUSSION

The due process hearing in this matter is calendared for July 25, 2013. Student's motion to amend the complaint is timely, and the District does not oppose. The motion to amend is granted. As ordered below, all dates will be vacated and OAH will issue a new scheduling order. Accordingly, the request to continue is moot and is denied.

ORDER

1. Student's request to amend the complaint is granted and 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.
2. Student's request to continue the PHC in this matter is denied.

Dated: July 15, 2013

/s/

THERESA RAVANDI
ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings