

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013110786

ORDER GRANTING MOTION TO
AMEND COMPLAINT AND
RESETTING ALL APPLICABLE
TIMELINES FOR THE DUE PROCESS
HEARING

On November 22, 2013, the West Contra Costa Unified School District (District) filed a Due Process Hearing Request (complaint) naming Student. On January 6, 2014, District filed an Amended Request for Due Process Hearing Request (amended complaint).¹ No response or opposition was received from Student.

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).)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 as District's motion is made more than five days before the hearing is due to commence. The due process hearing in this matter is currently set to begin on January 21, 2014. Further, Student has not opposed the request to amend. Therefore, District's motion to amend is timely, and is accordingly granted.

In addition to its request to amend the complaint, District requested that the currently scheduled due process hearing dates be maintained. As noted above, the filing of an amended complaint restarts all applicable timelines for the due process hearing. Accordingly, in the absence of an agreement between both parties to the contrary, OAH must reset all applicable timelines in this matter. Therefore, District request to maintain the currently set due process hearing dates is denied.

¹ The Office of Administrative Hearings (OAH) deems the filing of the amended complaint a motion to amend the complaint.

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

District's amended complaint shall be deemed filed on the date of this order, and all applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

ORDER

1. District's motion to amend the complaint is granted.
2. The amended complaint is deemed filed on the date of this order.
3. District's request to maintain the currently set due process hearing dates is denied.
4. All currently set dates are vacated.
5. OAH shall issue a new scheduling order based upon the date of filing of the amended complaint.

IT IS SO ORDERED.

Dated: January 10, 2014

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings