

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SPENCER VALLEY ELEMENTARY
SCHOOL DISTRICT.

OAH CASE NO. 2014030416

ORDER GRANTING REQUEST TO
AMEND COMPLAINT BY ADDING
CALIFORNIA VIRTUAL ACADEMY
AS A PARTY AND DENYING
REQUEST TO MAINTAIN
CURRENTLY SET DATES

On March 7, 2014, Parents on Student’s behalf filed a Due Process Hearing Request (complaint), naming Spencer Valley Elementary School District (District). On April 14, 2014, Student and District filed a joint stipulation to add California Virtual Academy (CAVA) as a responding party, and requesting that all previously set dates remain the same. The Stipulation will be considered a request to amend the 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).)¹ 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 local educational agency (LEA) is required to convene a meeting with the parents and the relevant members of the Individualized Education Program (IEP) team within 15 days of receiving notice of the Student’s complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1).) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (34 C.F.R. § 300.510(a)(3).) If the parents do not participate in the resolution session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a resolution session is held. (34 C.F.R. § 300.510(b)(3).) All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

The request to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order. The caption shall now include CAVA as a

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

respondent. Student shall serve a copy of the complaint on CAVA within 3 business days after issuance of this Order.

The parties request that all dates remain the same notwithstanding the addition of a responding party is denied. CAVA is entitled to participate in a resolution session, unless a resolution session is waived in writing by the parties.

All dates are vacated and a new scheduling order shall issue as of the date of this Order.

IT IS SO ORDERED.

DATE: April 7, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings