

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014050361

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On May 7, 2014, Student's parents on behalf of Student (Student) filed a due process hearing request (complaint), naming the Pasadena Unified School District (Pasadena). On August 5, 2014, Student filed a motion for leave to amend the complaint. On August 8, 2014, Pasadena filed an opposition to the motion. The case is currently set for a due process hearing starting on August 25, 2014.

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).)

According to the moving papers, Student seeks to amend the complaint to add issues related to an individualized education program offer made by Pasadena after the date of filing the initial complaint. Pasadena objects to the amendment because it will alter the issues presented in the case. Pasadena contends that the new issues involve new time periods and different school district personnel.

Student, on the other hand, contends that the request to amend is timely, and there is no prejudice to Pasadena because Student's parents are unilaterally paying for Student's current placement. Student believes that many of the same witnesses will be testifying as to all the issues in the case.

The motion seeking leave to amend is timely and will be granted. However, Student did not file a copy of the proposed amended complaint with the moving papers. Because the hearing date is fast approaching, it will be necessary for Student to file the amended complaint as soon as possible.

When the Office of Administrative Hearings receives Student's amended complaint, the amended complaint will be deemed filed and all applicable timelines shall be reset as of that date. OAH will issue a scheduling order with the new dates.

Until such time as the amended complaint is filed, all dates will remain on calendar as currently scheduled, including the requirement to file timely prehearing conference statements. If Student fails to file the amended complaint prior to five days before the current hearing date, the motion for leave to amend is denied and the matter will proceed to hearing on the currently scheduled dates.

IT IS SO ORDERED.

DATE: August 11, 2014

/s/

SUSAN RUFF

Administrative Law Judge

Office of Administrative Hearings