

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014051219

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On May 22, 2014, Student filed a Due Process Hearing Request (complaint), naming Oakland Unified School District (District). Pursuant to the Scheduling Order issued by the Office of Administrative Hearings (OAH) dated May 30, 2014, the Due Process Hearing is scheduled for July 16, 2014.

On June 22, 2013, Student filed a Motion to Amend the Due Process Hearing Request and Continue the Prehearing Conference and Due Process Hearing. A copy of the amended complaint is attached to the motion. Student seeks to amend the complaint to modify the allegations, add new facts and clarify the legal arguments. Student argues she did not have counsel when the original complaint was filed and will suffer prejudice if not permitted to amend the complaint because she will be forced to file a second due process complaint which may result in inconsistent rulings and a waste of resources. District refused to stipulate to continue the Prehearing Conference or the Due Process Hearing. However, OAH received no opposition to the motion to amend from the District.

APPLICABLE LAW AND DISCUSSION

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).)

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

The motion to amend is timely. The hearing in this matter is currently set to begin on July 16, 2014. Student's motion to amend was made more than five days before the hearing is set to commence. Accordingly, the motion is granted. 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.

IT IS SO ORDERED.

DATE: June 30, 2014

/s/

LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings