

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

RINCON VALLEY UNION
ELEMENTARY SCHOOL DISTRICT.

OAH Case No. 2015040849

ORDER GRANTING LEAVE TO
AMEND COMPLAINT

On April 14, 2015, Parents on Behalf of Student filed a Due Process Hearing Request naming Rincon Valley Union Elementary School District. On April 23, 2015, District filed a motion to dismiss the Hearing Request for failure to serve a copy upon the District. Later that same day, Student filed a Revised Request for Due Process Hearing, equivalent to a motion to amend his Due Process Hearing Request. In addition, Student filed a document titled as a “reply” to a declaration filed by the District in support of its motion to dismiss. District that day also filed a reply to Student’s reply.¹ Other than the request to dismiss the initial complaint,² District has not expressed a position on Student’s effort to amend his 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).) 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 and is granted. The amended complaint shall be deemed filed on the date of this order. Because Student has presented his Due Process Hearing Request in two separate, incomplete filings, he is ordered to prepare, serve upon

¹ These documents were received by the Office of Administrative Hearing out of sequence; their order is presumed from context.

² Because Student is seeking to amend his complaint, District’s motion to dismiss for lack of service of the original complaint is denied as moot. In its papers, District acknowledges receipt of service of the Amended Complaint. Student’s advocate shall ensure service upon District’s legal counsel of all future documents, and include a proof of service.

District, and forward to OAH his Due Process Hearing Request in a single document, a fully integrated complaint that includes all contentions against District. If Student fails to do so within ten calendar days of this order, District may renew its motion to dismiss this action. 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: May 6, 2015

/s/

CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings