

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ANTIOCH UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015060177

ORDER GRANTING STUDENT'S
SECOND MOTION TO AMEND
COMPLAINT

On May 20, 2015, Student filed a Due Process Hearing Request, naming Antioch Unified School District. On July 24, 2015, Student's counsel, Nicole Hodge Amey, filed a document which was interpreted to be a motion to amend the complaint. On August 3, 2015, Office of Administrative Hearings denied Student's motion on the basis that Student's "amended complaint" did not contain any substantive changes to the complaint.

On September 22, 2015, Student's counsel filed a document entitled, "Amended Due Process Complaint; Notice of Representation; Notice of Independent Assessment" (amended complaint). Although Student's counsel neglected to include a motion to amend the complaint as part of the document, the document is being interpreted to be Student's second motion to amend. The amended complaint alleges additional procedural and substantive violations. Antioch did not file an opposition to Student's motion. The due process hearing is currently scheduled to begin on October 6, 2015.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the amended 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).)

Student's motion is timely and is granted.

ORDER

1. The amended complaint shall be deemed filed on the date of this order.
2. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

3. In the future, Student's counsel will include a motion to amend when requesting to amend a complaint. Said motion to amend shall delineate the differences between the operative complaint from the amended complaint.

IT IS SO ORDERED.

DATE: September 28, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings